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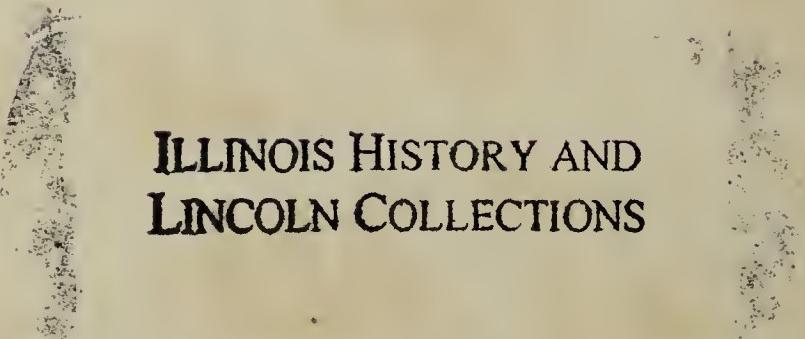
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TOWNSHIP ORGANIZATION.

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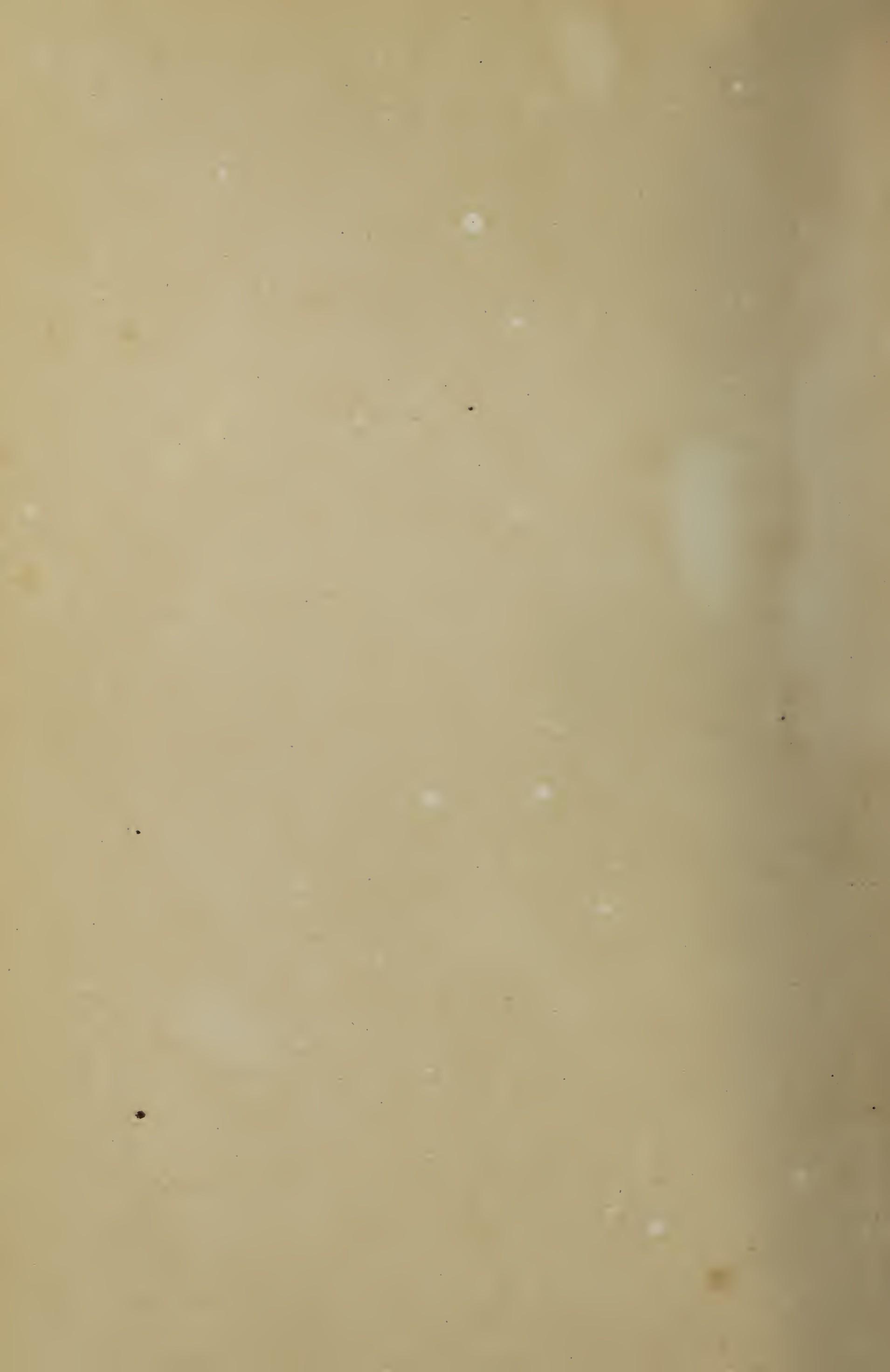
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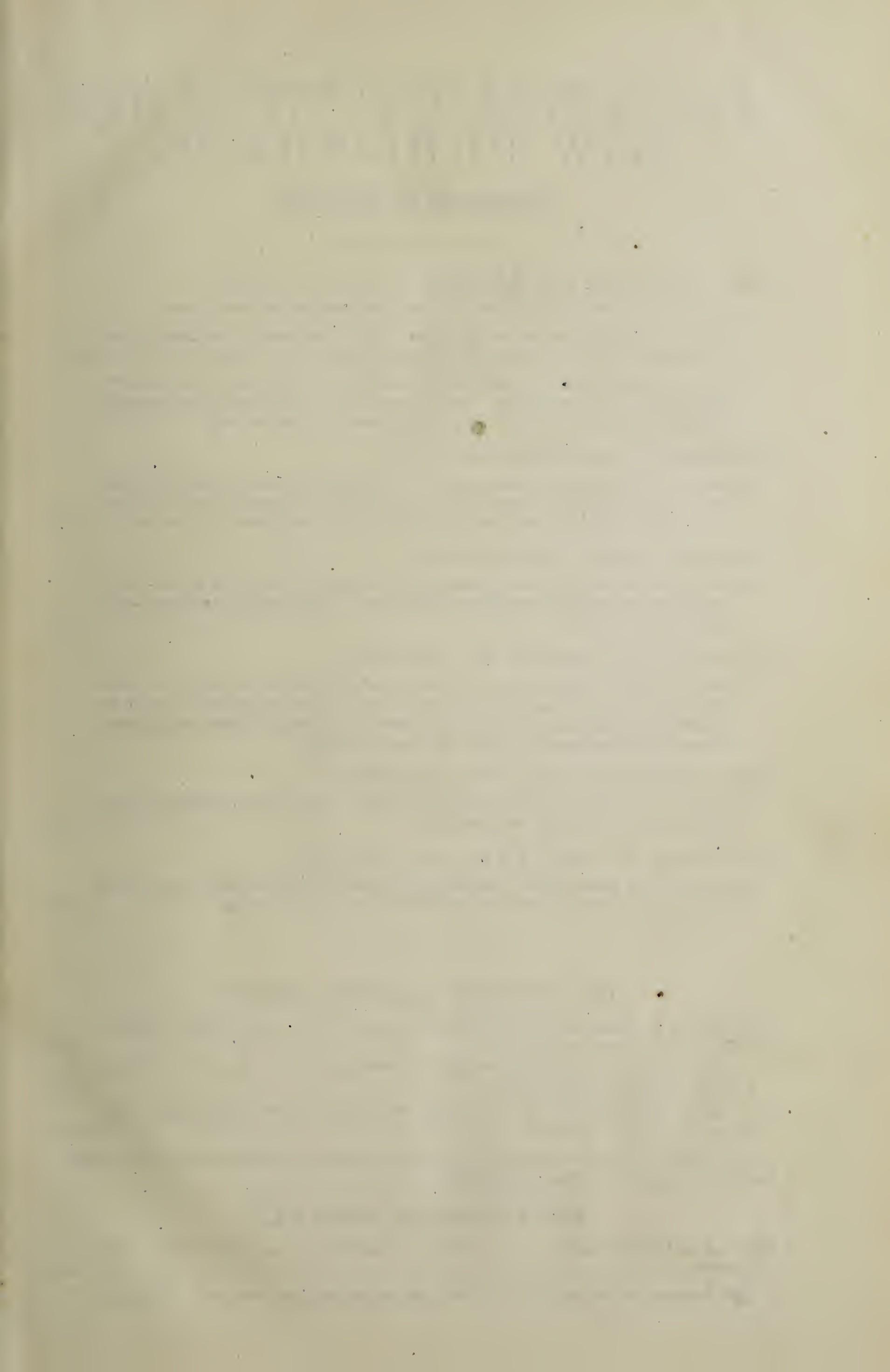
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# TOWNSHIP ORGANIZATION,

ELECTIONS,

EMINENT DOMAIN,

ESTRAYS

AND

ROADS.

CONSTITUTION OF 1870.

WITH A NEW AND COMPLETE SET OF SHORT FORMS.

*REVISED AND ENLARGED.*

*INCLUDING THE ACTS OF 1871 AND 1872.*

SPRINGFIELD:

E. L. & W. L. GROSS.

1872.

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## PREFACE.

THIS edition is accurate and complete, bringing the law down to the close of the session of 1872. It comprises all the laws of Illinois now in force on the subjects of ELECTIONS, EMINENT DOMAIN, ESTRAYS, ROADS AND BRIDGES, and TOWNSHIP ORGANIZATION. A few words in reference to the classification and arrangement: There are two Chapters entitled ELECTIONS. The first is the election law as it was in force immediately prior to the adoption of the constitution of 1870, with each section since repealed marked in the margin. The second contains the election laws of 1872. The act of 1872 respecting EMINENT DOMAIN appears under that title. The Chapter on ESTRAYS remains unchanged by the acts of 1871-2. There is one Chapter entitled ROADS, and another ROADS AND BRIDGES. The first is the road law as it was in force immediately prior to the adoption of the constitution of 1870, with each section since expressly repealed marked in the margin. The second is the road act of 1872. There are two Chapters entitled TOWNSHIP ORGANIZATION. The first is the town law as it was in force immediately prior to the adoption of the constitution of 1870, with each section since expressly repealed marked in the margin. The second contains the township acts of 1871 and 1872.

The road law is in singular confusion. For many years past there has been one distinct road law for counties under township organization, and that was included, of course, in the township organization acts. At the same time there was another distinct and separate road law for counties not under township organization; it was contained in the Chapter on ROADS. These distinctions have been completely broken down by the road and bridge act of 1872, which thoroughly mixes all the provisions of the two classes of acts, and attempts to embody all the legislation on that subject. But, unfortunately, the old law, for both classes of counties, is left unrepealed. A few sections only are repealed in terms, and the rest only when "conflicting." Now, it is plainly impossible to say how much this covers. No two persons, probably, can agree about what "conflicts." It must finally be left to the courts. And the Supreme Court, in such cases, is very much disposed to let both the acts stand as far as possible. See for instance: P. & R. I. R. W. Co. v. Warner, (Chic. Leg. N. vol. iv. 342) and cases there cited. We have therefore printed both the old acts and the new, marking only the sections which are in terms repealed. Concerning the constructive repeals, we do not offer any opinion.

These remarks apply also to the acts on Township Organization, and particularly to that portion of them relating to roads. Nearly all their provisions have been incorporated into the new road act of 1872, and generally in similar terms. But the old township acts on roads are not repealed, except by construction. And the same legislature which enacted the new road law of 1872, also enacted sundry amendments and modifications to the old township road laws, thereby recognizing their continuing validity, and contemplating and providing for their operation in the future. Hence we have printed all the old township acts, marking in the margin those which are expressly repealed, and leaving the question of constructive repeals, as in the other case, to be settled by the courts. And we also print all the new acts. In no other way could we be sure of presenting the whole law.

The Forms in this book are mostly for use under the Township Organization acts. There is, however, a complete set of Estray forms—a thing greatly needed, but never before attempted in this state. They are extremely short, and well adapted for practical use. They cannot fail to be acceptable.

SPRINGFIELD, August, 1872.

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*Township Organization.* Acts of 1872.*Township Organization Forms.**Estray Forms.*

## CONSTITUTION OF 1870.

**Adopted** in convention 13 May, 1870; ratified by the people 2 July, 1870; in force 8 Aug. 1870.

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## PREAMBLE.

We, the people of the state of Illinois — grateful to Almighty God for the civil, political and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations — in order to form a more perfect government, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity ; do ordain and establish this constitution for the state of Illinois.

**ARTICLE I.  
BOUNDARIES.**

The boundaries and jurisdiction of the state shall be as follows, to-wit : Beginning at the mouth of the Wabash river ; thence up the same, and with the line of Indiana, to the north-west corner of said state ; thence east, with the line of the same state, to the middle of lake Michigan ; thence north along the middle of said lake, to north latitude 42 degrees and 30 minutes ; thence west to the middle of the Mississippi river, and thence down along the middle of that river to its confluence with the Ohio river, and thence up the latter river, along its north-western shore, to the place of beginning : *Provided*, that this state shall exercise such jurisdiction upon the Ohio river, as she is now entitled to, or such as may hereafter be agreed upon by this state and the state of Kentucky.

**ARTICLE II.****BILL OF RIGHTS.**

- § 1. *Inherent and Inalienable Rights.*
- § 2. *Due Process of Law.*
- § 3. *Liberty of Conscience Guaranteed.*
- § 4. *Freedom of the Press — Libel.*
- § 5. *Right of Trial by Jury.*
- § 6. *Unreasonable Searches and Seizures.*
- § 7. *Bail allowed — Writ of Habeas Corpus.*
- § 8. *Indictment required — Grand Jury Abolished.*
- § 9. *Rights of Persons Accused of Crime.*
- § 10. *Self Crimination — Former Trial.*
- § 11. *Penalties proportionate — Corruption — Forfeiture.*
- § 12. *Imprisonment for Debt.*
- § 13. *Compensation for Property taken.*
- § 14. *Ex post facto laws — Irrevocable Grants.*
- § 15. *Military Power Subordinate.*
- § 16. *Quartering of Soldiers.*
- § 17. *Right of Assembly and Petition.*
- § 18. *Elections to be Free and Equal.*
- § 19. *What Laws ought to be.*
- § 20. *Fundamental Principles.*

§ 1. All men are by nature free and independent, and have certain inherent and inalienable rights — among these are life, liberty and the pursuit of happiness. To secure these rights and the protection of property, governments are instituted among men, deriving their just powers from the consent of the governed.

§ 2. No person shall be deprived of life, liberty or property, without due process of law.

Art. II. § 3.

Constitution of 1870.

Art. IV.

§ 3. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the state. No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship.

§ 4. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defense.

§ 5. The right of trial by jury as heretofore enjoyed, shall remain inviolate; but the trial of civil cases before justices of the peace by a jury of less than 12 men, may be authorized by law.

§ 6. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue without probable cause, supported by affidavit, particularly describing the place to be searched, and the persons or things to be seized.

§ 7. All persons shall be bailable by sufficient sureties, except for capital offenses, where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

§ 8. No person shall be held to answer for a criminal offense, unless on indictment of a grand jury, except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army and navy, or in the militia when in actual service in time of war or public danger: *Provided*, that the grand jury may be abolished by law in all cases.

§ 9. In all criminal prosecutions, the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation, and to have a copy thereof; to meet the witnesses face to face, and to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

§ 10. No person shall be compelled in any criminal case to give evidence against himself, or be twice put in jeopardy for the same offense.

§ 11. All penalties shall be proportioned to the nature of the offense; and no conviction shall work corruption of blood or forfeiture of estate; nor shall any person be transported out of the state for any offense committed within the same.

§ 12. No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for

the benefit of his creditors, in such manner as shall be prescribed by law; or in cases where there is strong presumption of fraud.

§ 13. Private property shall not be taken or damaged for public use without just compensation. Such compensation, when not made by the state, shall be ascertained by a jury, as shall be prescribed by law. The fee of land taken for railroad tracks, without consent of the owners thereof, shall remain in such owners, subject to the use for which it is taken.

§ 14. No *ex post facto* law, or law impairing the obligation of contracts, or making any irrevocable grant of special privileges or immunities, shall be passed.

§ 15. The military shall be in strict subordination to the civil power.

§ 16. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war except in the manner prescribed by law.

§ 17. The people have the right to assemble in a peaceable manner to consult for the common good, to make known their opinions to their representatives, and to apply for redress of grievances.

§ 18. All elections shall be free and equal.

§ 19. Every person ought to find a certain remedy in the laws for all injuries and wrongs which he may receive in his person, property or reputation; he ought to obtain, by law, right and justice freely and without being obliged to purchase it, completely and without denial, promptly and without delay.

§ 20. A frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

### ARTICLE III.

#### DISTRIBUTION OF POWERS.

The powers of the Government of this state are divided into three distinct departments—the Legislative, Executive and Judicial; and no person, or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

### ARTICLE IV.

#### LEGISLATIVE DEPARTMENT.

- § 1. General Assembly elective.
- § 2. Time of Election—Vacancies.
- § 3. Who are Eligible.
- § 4. Disqualification by Crime.
- § 5. Oath taken by Members.
- § 6. Senatorial Apportionment.
- §§ 7 & 8. Minority Representation.
- § 9. Time of Meeting—General Rules.
- § 10. Secrecy—Adjournments—Journals—Protests.
- § 11. Style of Laws.
- § 12. Origin and Passage of Bills.
- § 13. Reading—Printing—Title—Amendments.

## Art. IV. § 1.

## Constitution of 1870.

## Art IV. § 6

- § 14. *Privileges of Members.*
- § 15. *Disabilities of Members.*
- § 16. *Bills making Appropriations.*
- § 17. *Payment of Money — Statement of Expenses.*
- § 18. *Ordinary Expenses — Casual Deficits — Appropriations limited.*
- § 19. *Extra Compensation or Allowance.*
- § 20. *Public Credit not loaned.*
- § 21. *Pay and Mileage of Members.*
- § 22. *Special Legislation prohibited.*
- § 23. *Against Release from Liability.*
- § 24. *Proceedings on Impeachment.*
- § 25. *Fuel, Stationery, and Printing.*
- § 26. *State not to be sued.*
- § 27. *Lotteries and Gift Enterprises.*
- § 28. *Terms of Office not Extended.*
- § 29. *Protection of Operative Miners.*
- § 30. *Concerning Roads — Public and Private.*
- § 31. *Draining and Ditching.*
- § 32. *Homestead and Exemption Laws.*
- § 33. *Completion of the State House.*

§ 1. The legislative power shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives, both to be elected by the people.

## ELECTION.

§ 2. An election for members of the general assembly shall be held on the Tuesday next after the first Monday in November, in the year of our Lord 1870, and every two years thereafter, in each county, at such places therein as may be provided by law. When vacancies occur in either house, the governor, or person exercising the powers of governor, shall issue writs of election to fill such vacancies.

## ELIGIBILITY AND OATH.

§ 3. No person shall be a senator who shall not have attained the age of 25 years, or a representative who shall not have attained the age of 21 years. No person shall be a senator or a representative who shall not be a citizen of the United States, and who shall not have been for five years a resident of this state, and for two years next preceding his election a resident within the territory forming the district from which he is elected. No judge or clerk of any court, secretary of state, attorney general, state's attorney, recorder, sheriff, or collector of public revenue, member of either house of congress, or person holding any lucrative office under the United States or this state, or any foreign government, shall have a seat in the general assembly: *Provided*, that appointments in the militia, and the offices of notary public and justice of the peace, shall not be considered lucrative. Nor shall any person holding any office of honor or profit under any foreign government, or under the government of the United States, (except postmasters whose annual compensation does not exceed the sum of \$300,) hold any office of honor or profit under the authority of this state.

§ 4. No person who has been, or hereafter shall be convicted of bribery, perjury or other

infamous crime, nor any person who has been or may be a collector or holder of public moneys, who shall not have accounted for and paid over, according to law, all such moneys due from him, shall be eligible to the general assembly, or to any office of profit or trust in this state.

§ 5. Members of the general assembly, before they enter upon their official duties, shall take and subscribe the following oath or affirmation:

I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the state of Illinois, and will faithfully discharge the duties of senator (or representative) according to the best of my ability; and that I have not, knowingly or intentionally, paid or contributed anything, or made any promise in the nature of a bribe, to directly or indirectly influence any vote at the election at which I was chosen to fill the said office, and have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing, from any corporation, company or person, for any vote or influence I may give or withhold on any bill, resolution or appropriation, or for any other official act.

This oath shall be administered by a judge of the supreme or circuit court in the hall of the house to which the member is elected, and the secretary of state shall record and file the oath subscribed by each member. Any member who shall refuse to take the oath herein prescribed shall forfeit his office, and every member who shall be convicted of having sworn falsely to, or of violating, his said oath, shall forfeit his office and be disqualified thereafter from holding any office of profit or trust in this state.

## APPORTIONMENT — SENATORIAL.

§ 6. The general assembly shall apportion the state every 10 years, beginning with the year 1871, by dividing the population of the state, as ascertained by the federal census, by the number 51, and the quotient shall be the ratio of representation in the senate. The state shall be divided into 51 senatorial districts, each of which shall elect one senator, whose term of office shall be four years. The senators elected in the year of our Lord 1872, in districts bearing odd numbers, shall vacate their offices at the end of two years, and those elected in districts bearing even numbers, at the end of four years; and vacancies occurring by the expiration of term shall be filled by the election of senators for the full term. Senatorial districts shall be formed of contiguous and compact territory, bounded by county lines, and contain as nearly as practicable an equal number of inhabitants; but no district shall contain less than four-fifths of the senatorial ratio. Counties containing not less than the ratio and three-fourths, may be divided into separate districts, and shall be entitled to two senators, and to one additional senator for each number of inhabitants equal to the ratio, contained by such counties in excess of twice the number of said ratio.

NOTE. — By the adoption of minority representation, §§ 7 and 8 of this article cease to be a part of the constitution. Under § 12 of the schedule, and the vote of adoption, the following section relating to minority representation is substituted for said sections:—

Art. IV. §§ 7, 8.

Constitution of 1870.

Art. IV. § 16.

## STYLE OF LAWS, AND PASSAGE OF BILLS.

## MINORITY REPRESENTATION.

§§ 7 and 8. The house of representatives shall consist of three times the number of the members of the senate, and the term of office shall be two years. Three representatives shall be elected in each senatorial district at the general election in the year of our Lord 1872, and every two years thereafter. In all elections of representatives aforesaid, each qualified voter may cast as many votes for one candidate as there are representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates; as he shall see fit; and the candidates highest in votes shall be declared elected.

## TIME OF MEETING AND GENERAL RULES.

§ 9. The sessions of the general assembly shall commence at 12 o'clock noon, on the Wednesday next after the first Monday in January, in the year next ensuing the election of members thereof, and at no other time, unless as provided by this constitution. A majority of the members elected to each house shall constitute a quorum. Each house shall determine the rules of its proceedings, and be the judge of the election, returns and qualifications of its members; shall choose its own officers; and the senate shall choose a temporary president to preside when the lieutenant governor shall not attend as president or shall act as governor. The secretary of state shall call the house of representatives to order at the opening of each new assembly, and preside over it until a temporary presiding officer thereof shall have been chosen and shall have taken his seat. No member shall be expelled by either house, except by a vote of two-thirds of all the members elected to that house, and no member shall be twice expelled for the same offense. Each house may punish by imprisonment any person, not a member, who shall be guilty of disrespect to the house by disorderly or contemptuous behavior in its presence. But no such imprisonment shall extend beyond 24 hours at one time, unless the person shall persist in such disorderly or contemptuous behavior.

§ 10. The doors of each house and of committees of the whole, shall be kept open, except in such cases as, in the opinion of the house, require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, or to any other place than that in which the two houses shall be sitting. Each house shall keep a journal of its proceedings, which shall be published. In the senate at the request of two members, and in the house at the request of five members, the yeas and nays shall be taken on any question, and entered upon the journal. Any two members of either house shall have liberty to dissent from and protest, in respectful language, against any act or resolution which they think injurious to the public or to any individual, and have the reasons of their dissent entered upon the journals.

§ 11. The style of the laws of this state shall be; *Be it enacted by the People of the State of Illinois, represented in the General Assembly.*

§ 12. Bills may originate in either house, but may be altered, amended or rejected by the other; and on the final passage of all bills, the vote shall be by yeas and nays, upon each bill separately, and shall be entered upon the journal; and no bill shall become a law without the concurrence of a majority of the members elected to each house.

§ 13. Every bill shall be read at large on three different days, in each house; and the bill and all amendments thereto shall be printed before the vote is taken on its final passage; and every bill, having passed both houses, shall be signed by the speakers thereof. No act hereafter passed shall embrace more than one subject, and that shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed; and no law shall be revived or amended by reference to its title only, but the law revived, or the section amended, shall be inserted at length in the new act. And no act of the general assembly shall take effect until the first day of July next after its passage, unless, in case of emergency, (which emergency shall be expressed in the preamble or body of the act), the general assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct.

## PRIVILEGES AND DISABILITIES.

§ 14. Senators and representatives shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

§ 15. No person elected to the general assembly shall receive any civil appointment within this state from the governor, the governor and senate, or from the general assembly, during the term for which he shall have been elected; and all such appointments, and all votes given for any such members for any such office or appointment, shall be void; nor shall any member of the general assembly be interested, either directly or indirectly, in any contract with the state, or any county thereof, authorized by any law passed during the term for which he shall have been elected, or within one year after the expiration thereof.

## PUBLIC MONEYS AND APPROPRIATIONS.

§ 16. The general assembly shall make no appropriation of money out of the treasury in any private law. Bills making appropriations for the pay of members and officers of the general assembly, and for the salaries of the officers of the government, shall contain no provision on any other subject.

Art. IV. § 17.

Constitution of 1870.

Art. IV. § 22.

§ 17. No money shall be drawn from the treasury except in pursuance of an appropriation made by law, and on the presentation of a warrant issued by the auditor thereon; and no money shall be diverted from any appropriation made for any purpose, or taken from any fund whatever, either by joint or separate resolution. The auditor shall, within 60 days after the adjournment of each session of the general assembly, prepare and publish a full statement of all money expended at such session, specifying the amount of each item, and to whom and for what paid.

§ 18. Each general assembly shall provide for all the appropriations necessary for the ordinary and contingent expenses of the government until the expiration of the first fiscal quarter after the adjournment of the next regular session, the aggregate amount of which shall not be increased without a vote of two-thirds of the members elected to each house, nor exceed the amount of revenue authorized by law to be raised in such time; and all appropriations, general or special, requiring money to be paid out of the state treasury, from funds belonging to the state, shall end with such fiscal quarter: *Provided*, the state may, to meet casual deficits or failures in revenues, contract debts, never to exceed in the aggregate \$250,000; and moneys thus borrowed shall be applied to the purpose for which they were obtained, or to pay the debt thus created, and to no other purpose; and no other debt, except for the purpose of repelling invasion, suppressing insurrection, or defending the state in war, (for payment of which the faith of the state shall be pledged), shall be contracted, unless the law authorizing the same shall, at a general election, have been submitted to the people, and have received a majority of the votes cast for members of the general assembly at such election. The general assembly shall provide for the publication of said law for three months, at least, before the vote of the people shall be taken upon the same; and provision shall be made, at the time, for the payment of the interest annually, as it shall accrue, by a tax levied for the purpose, or from other sources of revenue; which law, providing for the payment of such interest by such tax, shall be irrecalable until such debt be paid: *And provided, further*, that the law levying the tax shall be submitted to the people with the law authorizing the debt to be contracted.

§ 19. The general assembly shall never grant or authorize extra compensation, fee or allowance to any public officer, agent, servant or contractor, after service has been rendered or a contract made, nor authorize the payment of any claim, or part thereof, hereafter created against the state under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void: *Provided*, the general assembly may make appropriations for expenditures incurred in suppressing insurrection or repelling invasion.

§ 20. The state shall never pay, assume or become responsible for the debts or liabilities of, or in any manner give, loan or extend its credit to, or in aid of any public or other corporation, association or individual.

## PAY OF MEMBERS.

§ 21. The members of the general assembly shall receive for their services the sum of \$5 per day, during the first session held under this constitution, and 10 cents for each mile necessarily traveled in going to and returning from the seat of government, to be computed by the auditor of public accounts; and thereafter such compensation as shall be prescribed by law, and no other allowance or emolument, directly or indirectly, for any purpose whatever; except the sum of \$50 per session to each member, which shall be in full for postage, stationery, newspapers, and all other incidental expenses and perquisites; but no change shall be made in the compensation of members of the general assembly during the term for which they may have been elected. The pay and mileage allowed to each member of the general assembly shall be certified by the speakers of their respective houses, and entered on the journals, and published at the close of each session.

## SPECIAL LEGISLATION PROHIBITED.

§ 22. The general assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: for —

Granting divorces;

Changing the names of persons or places;

Laying out, opening, altering and working roads or highways;

Vacating roads, town plats, streets, alleys and public grounds;

Locating or changing county seats;

Regulating county and township affairs;

Regulating the practice in courts of justice;

Regulating the jurisdiction and duties of justices of the peace, police magistrates, and constables;

Providing for changes of venue in civil and criminal cases;

Incorporating cities, towns, or villages, or changing or amending the charter of any town, city or village;

Providing for the election of members of the board of supervisors in townships, incorporated towns or cities;

Summoning and impaneling grand or petit juries;

Providing for the management of common schools;

Regulating the rate of interest on money;

The opening and conducting of any election, or designating the place of voting;

The sale or mortgage of real estate belonging to minors or others under disability;

The protection of game or fish;

Chartering or licensing ferries or toll bridges;

Remitting fines, penalties or forfeitures;

Creating, increasing, or decreasing fees, percentage or allowances of public officers, during

## Art. IV. § 23.

## Constitution of 1870.

## Art. V. § 1.

the term for which said officers are elected or appointed;

Changing the law of descent;

Granting to any corporation, association or individual the right to lay down railroad tracks, or amending existing charters for such purpose;

Granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever.

In all other cases where a general law can be made applicable, no special law shall be enacted.

§ 23. The general assembly shall have no power to release or extinguish, in whole or in part, the indebtedness, liability, or obligation of any corporation or individual to this state or to any municipal corporation therein.

## IMPEACHMENT.

§ 24. The house of representatives shall have the sole power of impeachment; but a majority of all the members elected must concur therein. All impeachments shall be tried by the senate; and when sitting for that purpose, the senators shall be upon oath, or affirmation, to do justice according to law and evidence. When the governor of the state is tried, the chief justice shall preside. No person shall be convicted without the concurrence of two-thirds of the senators elected. But judgment, in such cases, shall not extend further than removal from office, and disqualification to hold any office of honor, profit or trust under the government of this state. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

## MISCELLANEOUS.

§ 25. The general assembly shall provide, by law, that the fuel, stationery, and printing paper furnished for the use of the state; the copying, printing, binding and distributing the laws and journals, and all other printing ordered by the general assembly, shall be let by contract to the lowest responsible bidder; but the general assembly shall fix a maximum price; and no member thereof, or other officer of the state, shall be interested, directly or indirectly, in such contract. But all such contracts shall be subject to the approval of the governor, and if he disapproves the same there shall be a re-letting of the contract, in such manner as shall be prescribed by law.

§ 26. The state of Illinois shall never be made defendant in any court of law or equity.

§ 27. The general assembly shall have no power to authorize lotteries or gift enterprises, for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this state.

§ 28. No law shall be passed which shall operate to extend the term of any public officer after his election or appointment.

§ 29. It shall be the duty of the general assembly to pass such laws as may be necessary for the protection of operative miners, by providing for ventilation, when the same may be required, and the construction of escapement-shafts, or

such other appliances as may secure safety in all coal mines, and to provide for the enforcement of said laws by such penalties and punishments, as may be deemed proper.

§ 30. The general assembly may provide for establishing and opening roads and cartways, connected with a public road, for private and public use.

§ 31. The general assembly may pass laws permitting the owners or occupants of lands to construct drains and ditches, for agricultural and sanitary purposes, across the lands of others.

§ 32. The general assembly shall pass liberal homestead and exemption laws.

§ 33. The general assembly shall not appropriate out of the state treasury, or expend on account of the new capitol grounds, and construction, completion, and furnishing of the state house, a sum exceeding, in the aggregate, \$3,500,000, inclusive of all appropriations heretofore made, without first submitting the proposition for an additional expenditure to the legal voters of the state, at a general election; nor unless a majority of all the votes cast at such election shall be for the proposed additional expenditure.

## ARTICLE V.

## EXECUTIVE DEPARTMENT.

- § 1. Officers of this Department.
- § 2. Of the State Treasurer.
- § 3. Time of Electing State Officers.
- § 4. Returns — Tie — Contested Election.
- § 5. Eligibility for Office.
- § 6. Governor — Power and Duty.
- § 7. His Message and Statement.
- § 8. Convening the General Assembly.
- § 9. Proroguing the General Assembly.
- § 10. Nominations by the Governor.
- § 11. Vacancies may be Filled.
- § 12. Removals by the Governor.
- § 13. Reprieves — Commutations — Pardons.
- § 14. Governor as Commander-in-Chief.
- § 15. Impeachment for Misdemeanor.
- § 16. Veto of the Governor.
- § 17. Lieutenant Governor as Governor
- § 18. As President of the Senate.
- § 19. Vacancy in Governor's Office.
- § 20. Vacancy in other State Offices.
- § 21. Reports of State Officers.
- § 22. Great Seal of State.
- § 23. Fees and Salaries.
- § 24. Definition of "Office."
- § 25. Oath of Civil Officers.

## EXECUTIVE DEPARTMENT.

- § 1. The executive department shall consist of a Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, Treasurer, Superintendent of Public Instruction, and Attorney General, who shall, each, with the exception of the treasurer, hold his office for the term of four years from the second Monday of January next after his election, and until his successor is elected and qualified. They shall, except the lieutenant governor, reside at the seat

of government during their term of office, and keep the public records, books and papers there, and shall perform such duties as may be prescribed by law.

§ 2. The treasurer shall hold his office for the term of two years, and until his successor is elected and qualified; and shall be ineligible to said office for two years next after the end of the term for which he was elected. He may be required by the governor to give reasonable additional security, and in default of so doing his office shall be deemed vacant.

#### ELECTION.

§ 3. An election for governor, lieutenant governor, secretary of state, auditor of public accounts, and attorney general, shall be held on the Tuesday next after the first Monday of November, in the year of our Lord 1872, and every four years thereafter; for superintendent of public instruction, on the Tuesday next after the first Monday of November, in the year 1870, and every four years thereafter; and for treasurer on the day last above mentioned, and every two years thereafter, at such places and in such manner as may be prescribed by law.

§ 4. The returns of every election for the above named officers shall be sealed up and transmitted, by the returning officers, to the secretary of state, directed to "The Speaker of the House of Representatives," who shall, immediately after the organization of the house, and before proceeding to other business, open and publish the same in the presence of a majority of each house of the general assembly, who shall, for that purpose, assemble in the hall of the house of representatives. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more have an equal, and the highest, number of votes, the general assembly shall, by joint ballot, choose one of such persons for said office. Contested elections for all of said offices shall be determined by both houses of the general assembly, by joint ballot, in such manner as may be prescribed by law.

#### ELIGIBILITY.

§ 5. No person shall be eligible to the office of governor, or lieutenant governor, who shall not have attained the age of 30 years, and been, for five years next preceding his election, a citizen of the United States and of this state. Neither the governor, lieutenant governor, auditor of public accounts, secretary of state, superintendent of public instruction nor attorney general shall be eligible to any other office during the period for which he shall have been elected.

#### GOVERNOR.

§ 6. The supreme executive power shall be vested in the governor, who shall take care that the laws be faithfully executed.

§ 7. The governor shall, at the commencement of each session, and at the close of his term of office, give to the general assembly information, by message, of the condition of the

state, and shall recommend such measures as he shall deem expedient. He shall account to the general assembly, and accompany his message with a statement of all moneys received and paid out by him from any funds subject to his order, with vouchers, and, at the commencement of each regular session present estimates of the amount of money required to be raised by taxation for all purposes.

§ 8. The governor may, on extraordinary occasions, convene the general assembly, by proclamation, stating therein the purpose for which they are convened; and the general assembly shall enter upon no business except that for which they were called together.

§ 9. In case of a disagreement between the two houses with respect to the time of adjournment, the governor may, on the same being certified to him by the house first moving the adjournment, adjourn the general assembly to such time as he thinks proper, not beyond the first day of the next regular session.

§ 10. The governor shall nominate and, by and with the advice and consent of the senate, (a majority of all the senators elected concurring, by yeas and nays), appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise provided for; and no such officer shall be appointed or elected by the general assembly.

§ 11. In case of a vacancy, during the recess of the senate, in any office which is not elective, the governor shall make a temporary appointment until the next meeting of the senate, when he shall nominate some person to fill such office; and any person so nominated, who is confirmed by the senate (a majority of all the senators elected concurring by yeas and nays), shall hold his office during the remainder of the term, and until his successor shall be appointed and qualified. No person, after being rejected by the senate, shall be again nominated for the same office at the same session, unless at the request of the senate, or be appointed to the same office during the recess of the general assembly.

§ 12. The governor shall have power to remove any officer whom he may appoint, in case of incompetency, neglect of duty, or malfeasance in office; and he may declare his office vacant, and fill the same as is herein provided in other cases of vacancy.

§ 13. The governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses, subject to such regulations as may be provided by law relative to the manner of applying therefor.

§ 14. The governor shall be commander-in-chief of the military and naval forces of the state (except when they shall be called into the service of the United States); and may call out the same to execute the laws, suppress insurrection, and repel invasion.

§ 15. The governor, and all civil officers of this state, shall be liable to impeachment for any misdemeanor in office.

Art. V. § 16.

Constitution of 1870.

Art. V. § 25.

## VETO.

§ 16. Every bill passed by the general assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it, with his objections, to the house in which it shall have originated, which house shall enter the objections at large upon its journal, and proceed to reconsider the bill. If, then, two-thirds of the members elected agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law, notwithstanding the objections of the governor. But in all such cases, the vote of each house shall be determined by yeas and nays, to be entered on the journal. Any bill which shall not be returned by the governor within 10 days (Sundays excepted) after it shall have been presented to him, shall become a law in like manner as if he had signed it, unless the general assembly shall, by their adjournment, prevent its return; in which case it shall be filed, with his objections, in the office of the secretary of state, within 10 days after such adjournment, or become a law.

## LIEUTENANT GOVERNOR.

§ 17. In case of the death, conviction on impeachment, failure to qualify, resignation, absence from the state, or other disability of the governor, the powers, duties and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the lieutenant governor.

§ 18. The lieutenant governor shall be president of the senate, and shall vote only when the senate is equally divided. The senate shall choose a president, *pro tempore*, to preside in case of the absence or impeachment of the lieutenant governor, or when he shall hold the office of governor.

§ 19. If there be no lieutenant governor, or if the lieutenant governor shall, for any of the causes specified in § 17, of this article, become incapable of performing the duties of the office, the president of the senate shall act as governor until the vacancy is filled or the disability removed; and if the president of the senate, for any of the above named causes, shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house of representatives.

## OTHER STATE OFFICERS.

§ 20. If the office of auditor of public accounts, treasurer, secretary of state, attorney general, or superintendent of public instruction shall be vacated by death, resignation or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law. An account shall be kept by the officers

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of the executive department, and of all the public institutions of the state, of all moneys received or disbursed by them, severally, from all sources, and for every service performed, and a semi-annual report thereof be made to the governor, under oath; and any officer who makes a false report shall be guilty of perjury, and punished accordingly.

§ 21. The officers of the executive department, and of all the public institutions of the state, shall, at least 10 days preceding each regular session of the general assembly, severally report to the governor, who shall transmit such reports to the general assembly, together with the reports of the judges of the supreme court of defects in the constitution and laws; and the governor may at any time require information, in writing, under oath, from the officers of the executive department, and all officers and managers of state institutions, upon any subject relating to the condition, management and expenses of their respective offices.

## THE SEAL OF STATE.

§ 22. There shall be a seal of the state, which shall be called the "Great seal of the state of Illinois," which shall be kept by the secretary of state, and used by him, officially, as directed by law.

## FEES AND SALARIES.

§ 23. The officers named in this article shall receive for their services a salary, to be established by law, which shall not be increased or diminished during their official terms, and they shall not, after the expiration of the terms of those in office at the adoption of this constitution, receive to their own use any fees, costs, perquisites of office, or other compensation. And all fees that may hereafter be payable by law for any services performed by any officer provided for in this article of the constitution, shall be paid in advance into the state treasury.

## DEFINITION AND OATH OF OFFICE.

§ 24. An office is a public position created by the constitution or law, continuing during the pleasure of the appointing power, or for a fixed time, with a successor elected or appointed. An employment is an agency, for a temporary purpose, which ceases when that purpose is accomplished.

§ 25. All civil officers, except members of the general assembly and such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States, and the constitution of the state of Illinois, and that I will faithfully discharge the duties of the office of — according to the best of my ability.

And no other oath, declaration or test shall be required as a qualification.

Art. VI. § 1.

Constitution of 1870.

Art. VI. § 6.

## ARTICLE VI.

## JUDICIAL DEPARTMENT.

- § 1. *Judicial Powers of Courts.*
- § 2. *Seven Supreme Judges — Four Decide.*
- § 3. *Qualifications of a Supreme Judge.*
- § 4. *Terms of the Supreme Court.*
- § 5. *Three Grand Divisions — Seven Districts.*
- § 6. *Election of Supreme Judges.*
- § 7. *Salaries of the Supreme Judges.*
- § 8. *Appeals and Writs of Error.*
- § 9. *Appointment of Reporter.*
- § 10. *Clerks of the Supreme Court.*
- § 11. *Appellate Courts Authorized.*
- § 12. *Jurisdiction of Circuit Courts.*
- § 13. *Formation of Judicial Circuits.*
- § 14. *Time of holding Circuit Courts.*
- § 15. *Circuits containing Four Judges.*
- § 16. *Salaries of the Circuit Judges.*
- § 17. *Qualifications of Judge or Commissioner.*
- § 18. *County Judge — County Clerk.*
- § 19. *Appeals from County Courts.*
- § 20. *Probate Courts Authorized.*
- § 21. *Justices of the Peace and Constables.*
- § 22. *State's Attorney in each County.*
- § 23. *Cook County Courts of Record.*
- § 24. *Chief Justice — Power of Judges.*
- § 25. *Salaries of the Judges.*
- § 26. *Criminal Court of Cook County.*
- § 27. *Clerks of Cook County Courts.*
- § 28. *Justices in Chicago Appointed.*
- § 29. *Uniformity in the Courts.*
- § 30. *Removal of any Judge.*
- § 31. *Judges to make Written Reports.*
- § 32. *Terms of Office — Filling Vacancies.*
- § 33. *Process — Prosecutions — Population.*

§ 1. The judicial powers, except as in this article is otherwise provided, shall be vested in one supreme court, circuit courts, county courts, justices of the peace, police magistrates, and in such courts as may be created by law in and for cities and incorporated towns.

## SUPREME COURT.

§ 2. The supreme court shall consist of seven judges, and shall have original jurisdiction in cases relating to the revenue, in *mandamus*, and *habeas corpus*, and appellate jurisdiction in all other cases. One of said judges shall be chief justice; four shall constitute a quorum, and the concurrence of four shall be necessary to every decision.

§ 3. No person shall be eligible to the office of judge of the supreme court unless he shall be at least 30 years of age, and a citizen of the United States, nor unless he shall have resided in this state five years next preceding his election, and be a resident of the district in which he shall be elected.

§ 4. Terms of the supreme court shall continue to be held in the present grand divisions at the several places now provided for holding the same; and until otherwise provided by law, one or more terms of said court shall be held, for the northern division, in the city of Chicago, each year, at such times as said court may ap-

point, whenever said city or the county of Cook shall provide appropriate rooms therefor, and the use of a suitable library, without expense to the state. The judicial divisions may be altered, increased or diminished in number, and the times and places of holding said court may be changed by law.

§ 5. The present grand divisions shall be preserved, and be denominated Southern, Central and Northern, until otherwise provided by law. The state shall be divided into seven districts for the election of judges, and until otherwise provided by law, they shall be as follows:

*First District.* — The counties of St. Clair, Clinton, Washington, Jefferson, Wayne, Edwards, Wabash, White, Hamilton, Franklin, Perry, Randolph, Monroe, Jackson, Williamson, Saline, Gallatin, Hardin, Pope, Union, Johnson, Alexander, Pulaski and Massac.

*Second District.* — The counties of Madison, Bond, Marion, Clay, Richland, Lawrence, Crawford, Jasper, Effingham, Fayette, Montgomery, Macoupin, Shelby, Cumberland, Clark, Greene, Jersey, Calhoun and Christian.

*Third District.* — The counties of Sangamon, Macon, Logan, De Witt, Piatt, Douglas, Champaign, Vermilion, McLean, Livingston, Ford, Iroquois, Coles, Edgar, Moultrie and Tazewell.

*Fourth District.* — The counties of Fulton, McDonough, Hancock, Schuyler, Brown, Adams, Pike, Mason, Menard, Morgan, Cass and Scott.

*Fifth District.* — The counties of Knox, Warren, Henderson, Mercer, Henry, Stark, Peoria, Marshall, Putnam, Bureau, La Salle, Grundy and Woodford.

*Sixth District.* — The counties of Whiteside, Carroll, Jo Daviess, Stephenson, Winnebago, Boone, McHenry, Kane, Kendall, De Kalb, Lee, Ogle and Rock Island.

*Seventh District.* — The counties of Lake, Cook, Will, Kankakee and Du Page.

The boundaries of the districts may be changed at the session of the general assembly next preceding the election for judges therein, and at no other time; but whenever such alterations shall be made, the same shall be upon the rule of equality of population, as nearly as county boundaries will allow, and the districts shall be composed of contiguous counties, in as nearly compact form as circumstances will permit. The alteration of the districts shall not affect the tenure of office of any judge.

§ 6. At the time of voting on the adoption of this constitution, one judge of the supreme court shall be elected by the electors thereof, in each of said districts numbered two, three, six, and seven, who shall hold his office for the term of nine years from the first Monday of June, in the year of our Lord 1870. The term of office of judges of the supreme court, elected after the adoption of this constitution, shall be nine years; and on the first Monday of June of the year in which the term of any of the judges in office at the adoption of this constitution, or of the judges then elected, shall expire, and every nine years thereafter, there shall be an election for the successor or successors of such judges, in the re-

Art. VI. § 7.

Constitution of 1870.

Art. VI. § 18.

spective districts wherein the term of such judges shall expire. The chief justice shall continue to act as such until the expiration of the term for which he was elected, after which the judges shall choose one of their number chief justice.

§ 7. From and after the adoption of this constitution, the judges of the supreme court shall each receive a salary of \$4,000 per annum, payable quarterly, until otherwise provided by law. And after said salaries shall be fixed by law, the salaries of the judges in office shall not be increased or diminished during the terms for which said judges shall have been elected.

§ 8. Appeals and writs of error may be taken to the supreme court, held in the grand division in which the case is decided, or, by consent of the parties, to any other grand division.

§ 9. The supreme court shall appoint one reporter of its decisions, who shall hold his office for six years, subject to removal by the court.

§ 10. At the time of the election for representatives in the general assembly, happening next preceding the expiration of the terms of office of the present clerks of said court, one clerk of said court for each division shall be elected, whose term of office shall be six years from said election, but who shall not enter upon the duties of his office until the expiration of the term of his predecessor, and every six years thereafter, one clerk of said court for each division shall be elected.

#### APPELLATE COURTS.

§ 11. After the year of our Lord 1874 inferior appellate courts, of uniform organization and jurisdiction, may be created in districts formed for that purpose, to which such appeals and writs of error as the general assembly may provide, may be prosecuted from circuit and other courts, and from which appeals and writs of error shall lie to the supreme court, in all criminal cases, and cases in which a franchise, or freehold, or the validity of a statute is involved, and in such other cases as may be provided by law. Such appellate courts shall be held by such number of judges of the circuit courts, and at such times and places, and in such manner, as may be provided by law; but no judge shall sit in review upon cases decided by him; nor shall said judges receive any additional compensation for such services.

#### CIRCUIT COURTS.

§ 12. The circuit courts shall have original jurisdiction of all causes in law and equity, and such appellate jurisdiction as is or may be provided by law, and shall hold two or more terms each year in every county. The terms of office of judges of circuit courts shall be six years.

§ 13. The state, exclusive of the county of Cook and other counties having a population of 100,000, shall be divided into judicial circuits, prior to the expiration of the terms of office of the present judges of the circuit courts. Such circuits shall be formed of contiguous counties, in as nearly compact form and as nearly equal as circumstances will permit, having due regard

to business, territory and population, and shall not exceed in number one circuit for every 100,000 of population in the state. One judge shall be elected for each of said circuits by the electors thereof. New circuits may be formed and the boundaries of circuits changed by the general assembly, at its session next preceding the election for circuit judges, but at no other time: *Provided*, that the circuits may be equalized or changed at the first session of the general assembly, after the adoption of this constitution. The creation, alteration or change of any circuit shall not effect the tenure of office of any judge. Whenever the business of the circuit court of any one, or of two or more contiguous counties, containing a population exceeding 50,000, shall occupy nine months of the year, the general assembly may make of such county, or counties, a separate circuit. Whenever additional circuits are created, the foregoing limitations shall be observed.

§ 14. The general assembly shall provide for the times of holding court in each county; which shall not be changed, except by the general assembly next preceding the general election for judges of said courts; but additional terms may be provided for in any county. The election for judges of the circuit courts shall be held on the first Monday in June, in the year of our Lord 1873, and every six years thereafter.

§ 15. The general assembly may divide the state into judicial circuits of greater population and territory, in lieu of the circuits provided for in § 13 of this article, and provide for the election therein, severally, by the electors thereof, by general ticket, of not exceeding four judges, who shall hold the circuit courts in the circuit for which they shall be elected, in such manner as may be provided by law.

§ 16. From and after the adoption of this constitution, judges of the circuit courts shall receive a salary of \$3,000 per annum, payable quarterly, until otherwise provided by law. And after their salaries shall be fixed by law, they shall not be increased or diminished during the terms for which said judges shall be, respectively, elected; and from and after the adoption of this constitution, no judge of the supreme or circuit court shall receive any other compensation, perquisite or benefit, in any form whatsoever, nor perform any other than judicial duties to which may belong any emoluments.

§ 17. No person shall be eligible to the office of judge of the circuit or any inferior court, or to membership in the "Board of county commissioners," unless he shall be at least 25 years of age, and a citizen of the United States, nor unless he shall have resided in this State five years next preceding his election, and be a resident of the circuit, county, city, cities, or incorporated town in which he shall be elected.

#### COUNTY COURTS.

§ 18. There shall be elected in and for each county, one county judge and one clerk of the county court, whose terms of office shall be four years. But the general assembly may create

Art. VI. § 19.

Constitution of 1870.

Art. VI. § 28.

districts of two or more contiguous counties, in each of which shall be elected one judge, who shall take the place of, and exercise the powers and jurisdiction of county judges in such districts. County courts shall be courts of record, and shall have original jurisdiction in all matters of probate; settlement of estates of deceased persons; appointment of guardians and conservators, and settlements of their accounts; in all matters relating to apprentices; and in proceedings for the collection of taxes and assessments, and such other jurisdiction as may be provided for by general law.

§ 19. Appeals and writs of error shall be allowed from final determinations of county courts, as may be provided by law.

#### PROBATE COURTS.

§ 20. The general assembly may provide for the establishment of a probate court in each county having a population of over 50,000, and for the election of a judge thereof, whose term of office shall be the same as that of the county judge, and who shall be elected at the same time and in the same manner. Said courts, when established, shall have original jurisdiction of all probate matters, the settlement of estates of deceased persons, the appointment of guardians and conservators, and settlements of their accounts; in all matters relating to apprentices, and in cases of the sales of real estate of deceased persons for the payment of debts.

#### JUSTICES OF THE PEACE AND CONSTABLES.

§ 21. Justices of the peace, police magistrates, and constables shall be elected in and for such districts as are, or may be, provided by law, and the jurisdiction of such justices of the peace and police magistrates shall be uniform.

#### STATE'S ATTORNEYS.

§ 22. At the election for members of the general assembly in the year of our Lord 1872, and every four years thereafter, there shall be elected a state's attorney in and for each county, in lieu of the state's attorneys now provided by law, whose term of office shall be four years.

#### COURTS OF COOK COUNTY.

§ 23. The county of Cook shall be one judicial circuit. The circuit court of Cook county shall consist of five judges, until their number shall be increased, as herein provided. The present judge of the recorder's court of the city of Chicago, and the present judge of the circuit court of Cook county, shall be two of said judges, and shall remain in office for the terms for which they were respectively elected, and until their successors shall be elected and qualified. The superior court of Chicago shall be continued, and called the superior court of Cook county. The general assembly may increase the number of said judges, by adding one to either of said courts for every additional 50,000 inhabitants in said county, over and above a population of 400,000. The terms of office of the judges

of said courts hereafter elected, shall be six years.

§ 24. The judge having the shortest unexpired term shall be chief justice of the court of which he is a judge. In case there are two or more whose terms expire at the same time, it may be determined by lot which shall be chief justice. Any judge of either of said courts shall have all the powers of a circuit judge, and may hold the court of which he is a member. Each of them may hold a different branch thereof at the same time.

§ 25. The judges of the superior and circuit courts, and the state's attorney, in said county, shall receive the same salaries, payable out of the state treasury, as is or may be paid from said treasury to the circuit judges and state's attorneys of the state, and such further compensation, to be paid by the county of Cook, as is or may be provided by law; such compensation shall not be changed during their continuance in office:

§ 26. The recorder's court of the city of Chicago shall be continued, and shall be called the "Criminal court of Cook county." It shall have the jurisdiction of a circuit court, in all cases of criminal and *quasi* criminal nature, arising in the county of Cook, or that may be brought before said court pursuant to law; and all recognizances and appeals taken in said county, in criminal and *quasi* criminal cases shall be returnable and taken to said court. It shall have no jurisdiction in civil cases, except in those on behalf of the people, and incident to such criminal or *quasi* criminal matters, and to dispose of unfinished business. The terms of said criminal court of Cook county shall be held by one or more of the judges of the circuit or superior court of Cook county, as nearly as may be in alternation, as may be determined by said judges, or provided by law. Said judges shall be, *ex-officio*, judges of said court.

§ 27. The present clerk of the recorder's court of the city of Chicago, shall be the clerk of the criminal court of Cook county, during the term for which he was elected. The present clerks of the superior court of Chicago, and the present clerk of the circuit court of Cook county, shall continue in office during the terms for which they were respectively elected; and thereafter there shall be but one clerk of the superior court, to be elected by the qualified electors of said county, who shall hold his office for the term of four years, and until his successor is elected and qualified.

§ 28. All justices of the peace in the city of Chicago shall be appointed by the governor, by and with the advice and consent of the senate, (but only upon the recommendation of a majority of the judges of the circuit, superior and county courts), and for such districts as are now or shall hereafter be provided by law. They shall hold their offices for four years, and until their successors have been commissioned and qualified, but they may be removed by summary proceeding in the circuit or superior court, for extortion or other malfeasance. Existing jus-

Art. VI. § 29.

Constitution of 1870.

Art. VIII. § 2.

tices of the peace and police magistrates may hold their offices until the expiration of their respective terms.

## GENERAL PROVISIONS.

§ 29. All judicial officers shall be commissioned by the governor. All laws relating to courts shall be general, and of uniform operation; and the organization, jurisdiction, powers, proceedings and practice of all courts, of the same class or grade, so far as regulated by law, and the force and effect of the process, judgments and decrees of such courts, severally, shall be uniform.

§ 30. The general assembly may, for cause entered on the journals, upon due notice and opportunity of defense, remove from office any judge, upon concurrence of three-fourths of all the members elected, of each house. All other officers in this article mentioned, shall be removed from office on prosecution and final conviction, for misdemeanor in office.

§ 31. All judges of courts of record, inferior to the supreme court, shall, on or before the first day of June, of each year, report in writing to the judges of the supreme court, such defects and omissions in the laws as their experience may suggest; and the judges of the supreme court shall, on or before the first day of January, of each year, report in writing to the governor such defects and omissions in the constitution and laws as they may find to exist, together with appropriate forms of bills to cure such defects and omissions in the laws. And the judges of the several circuit courts shall report to the next general assembly the number of days they have held court, in the several counties composing their respective circuits, the preceding two years.

§ 32. All officers provided for in this article shall hold their offices until their successors shall be qualified, and they shall, respectively, reside in the division, circuit, county or district for which they may be elected or appointed. The terms of office of all such officers, where not otherwise prescribed in this article, shall be four years. All officers, where not otherwise provided for in this article, shall perform such duties and receive such compensation as is, or may be, provided by law. Vacancies in such elective offices shall be filled by election; but where the unexpired term does not exceed one year, the vacancy shall be filled by appointment, as follows: Of judges, by the governor; of clerks of courts, by the court to which the office appertains, or by the judge or judges thereof; and of all such other offices, by the board of supervisors, or board of county commissioners, in the county where the vacancy occurs.

§ 33. All process shall run; *In the name of the People of the State of Illinois*; and all prosecutions shall be carried on; *In the name and by the authority of the People of the State of Illinois*; and conclude; *Against the peace and dignity of the same*. "Population," wherever used in this article, shall be determined by the next preceding census of this state, or of the United States.

## ARTICLE VII.

## SUFFRAGE.

- § 1. *Who are Entitled to Vote.*
- § 2. *All Voting to be by Ballot.*
- § 3. *Privileges of Electors.*
- § 4. *Absence on Public Business.*
- § 5. *Soldier not Deemed a Resident.*
- § 6. *Qualifications for Office.*
- § 7. *Persons Convicted of Crime.*

§ 1. Every person having resided in this state one year, in the county 90 days, and in the election district 30 days next preceding any election therein, who was an elector in this state on the first day of April, in the year of our Lord 1848, or obtained a certificate of naturalization, before any court of record in this state, prior to the first day of January, in the year of our Lord 1870, or who shall be a male citizen of the United States, above the age of 21 years, shall be entitled to vote at such election.

§ 2. All votes shall be by ballot.

§ 3. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same. And no elector shall be obliged to do military duty on the days of election, except in time of war or public danger.

§ 4. No elector shall be deemed to have lost his residence in this state by reason of his absence on the business of the United States, or of this state, or in the military or naval service of the United States.

§ 5. No soldier, seaman or marine in the army or navy of the United States, shall be deemed a resident of this state in consequence of being stationed therein.

§ 6. No person shall be elected or appointed to any office in this state, civil or military, who is not a citizen of the United States, and who shall not have resided in this state one year next preceding the election or appointment.

§ 7. The general assembly shall pass laws excluding from the right of suffrage persons convicted of infamous crimes.

## ARTICLE VIII.

## EDUCATION.

- § 1. *Free Schools Established.*
- § 2. *Gifts or Grants in aid of Schools.*
- § 3. *Public Schools not to be Sectarian.*
- § 4. *School Officers not Interested.*
- § 5. *County Superintendent of Schools.*

§ 1. The general assembly shall provide a thorough and efficient system of free schools, whereby all children of this state may receive a good common school education.

§ 2. All lands, moneys, or other property, donated, granted or received for school, college, seminary or university purposes, and the proceeds thereof, shall be faithfully applied to the objects for which such gifts or grants were made.

Art. VIII. § 3.

Constitution of 1870.

Art. IX. § 10

§ 3. Neither the general assembly nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution, controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money, or other personal property ever be made by the state, or any such public corporation, to any church, or for any sectarian purpose.

§ 4. No teacher, state, county, township, or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture, used or to be used, in any school in this state, with which such officer or teacher may be connected, under such penalties as may be provided by the general assembly.

§ 5. There may be a county superintendent of schools in each county whose qualifications, powers, duties, compensation, and time and manner of election, and term of office, shall be prescribed by law.

## ARTICLE IX.

### REVENUE.

- § 1. *Principles of Taxation Stated.*
- § 2. *Other and further Taxation.*
- § 3. *Property Exempt from Taxation.*
- § 4. *Sale of Real Property for Taxes.*
- § 5. *Right of Redemption therefrom.*
- § 6. *Release from Taxation Forbidden.*
- § 7. *Taxes paid into State Treasury.*
- § 8. *Limitation on County Taxes.*
- § 9. *Local Municipal Improvements.*
- § 10. *Taxation of Municipal Corporations.*
- § 11. *Defaulter not to be Eligible.*
- § 12. *Limitation on Municipal Indebtedness.*

§ 1. The general assembly shall provide such revenue as may be needful, by levying a tax, by valuation, so that every person and corporation shall pay a tax in proportion to the value of his, her, or its property—such value to be ascertained by some person or persons, to be elected or appointed in such manner as the general assembly shall direct, and not otherwise; but the general assembly shall have power to tax peddlers, auctioneers, brokers, hawkers, merchants, commission merchants, showmen, jugglers, innkeepers, grocery-keepers, liquor dealers, toll bridges, ferries, insurance, telegraph and express interests or business; venders of patents, and persons or corporations owning or using franchises and privileges, in such manner as it shall, from time to time, direct by general law, uniform as to the class upon which it operates.

§ 2. The specification of the objects and subjects of taxation shall not deprive the general assembly of the power to require other subjects or objects to be taxed, in such manner as may be consistent with the principles of taxation fixed in this constitution.

§ 3. The property of the state, counties, and other municipal corporations, both real and personal, and such other property, as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes, may be exempted from taxation; but such exemption shall be only by general law. In the assessment of real estate encumbered by public easement, any depreciation occasioned by such easement may be deducted in the valuation of such property.

§ 4. The general assembly shall provide, in all cases where it may be necessary to sell real estate for the non-payment of taxes or special assessments, for state, county, municipal, or other purposes, that a return of such unpaid taxes or assessments shall be made to some general officer, of the county, having authority to receive state and county taxes; and there shall be no sale of said property for any of said taxes or assessments but by said officer, upon the order or judgment of some court of record.

§ 5. The right of redemption from all sales of real estate, for the non-payment of taxes or special assessments of any character, whatever, shall exist in favor of owners and persons interested in such real estate, for a period of not less than two years from such sales thereof. And the general assembly shall provide, by law, for reasonable notice to be given to the owners or parties interested, by publication or otherwise, of the fact of the sale of the property for such taxes or assessments, and when the time of redemption shall expire: *Provided*, that occupants shall in all cases be served with personal notice before the time of redemption expires.

§ 6. The general assembly shall have no power to release or discharge any county, city, township, town or district, whatever, or the inhabitants thereof, or the property therein, from their or its proportionate share of taxes to be levied for state purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

§ 7. All taxes levied for state purposes shall be paid into the state treasury.

§ 8. County authorities shall never assess taxes, the aggregate of which shall exceed 75 cents per \$100 valuation, except for the payment of indebtedness existing at the adoption of this constitution, unless authorized by a vote of the people of the county.

§ 9. The general assembly may vest the corporate authorities of cities, towns, and villages, with power to make local improvements by special assessment or by special taxation of contiguous property, or otherwise. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but such taxes shall be uniform, in respect to persons and property, within the jurisdiction of the body imposing the same.

§ 10. The general assembly shall not impose taxes upon municipal corporations, or the inhabitants or property thereof, for corporate purposes, but shall require that all the taxable property within the limits of municipal corpo-

Art. IX. § 11.

Constitution of 1870.

Art. X. § 6.

rations shall be taxed for the payment of debts contracted under authority of law, such taxes to be uniform in respect to persons and property, within the jurisdiction of the body imposing the same. Private property shall not be liable to be taken or sold for the payment of the corporate debts of a municipal corporation.

§ 11. No person who is in default, as collector or custodian of money or property belonging to a municipal corporation shall be eligible to any office in or under such corporation. The fees, salary or compensation of no municipal officer who is elected or appointed for a definite term of office, shall be increased or diminished during such term.

§ 12. No county, city, township, school district, or other municipal corporation, shall be allowed to become indebted in any manner or for any purpose, to an amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes, previous to the incurring of such indebtedness. Any county, city, school district, or other municipal corporation, incurring any indebtedness as aforesaid, shall before, or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal thereof within 20 years from the time of contracting the same. This section shall not be construed to prevent any county, city, township, school district, or other municipal corporation, from issuing their bonds in compliance with any vote of the people which may have been had prior to the adoption of this Constitution in pursuance of any law providing therefor.

## ARTICLE X.

## COUNTIES.

- § 1. Formation of New Counties.
- § 2. Division of any County.
- § 3. Territory stricken from a County.
- § 4. Removal of a County Seat.
- § 5. Methods of County Government.
- § 6. Board of County Commissioners.
- § 7. County affairs in Cook County.
- § 8. County Officers — Terms of Office.
- § 9. Salaries and Fees in Cook County.
- § 10. Salaries fixed by County Board.
- § 11. Township Officers — Special Laws.
- § 12. All Future Fees Uniform.
- § 13. Sworn report of all Fees.

§ 1. No new county shall be formed or established by the general assembly, which will reduce the county or counties, or either of them, from which it shall be taken, to less contents than 400 square miles; nor shall any county be formed of less contents; nor shall any line thereof pass within less than 10 miles of any county seat of the county or counties proposed to be divided.

§ 2. No county shall be divided, or have any

part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county, voting on the question, shall vote for the same.

§ 3. There shall be no territory stricken from any county, unless a majority of the voters living in such territory, shall petition for such division; and no territory shall be added to any county without the consent of the majority of the voters of the county to which it is proposed to be added. But the portion so stricken off and added to another county, or formed in whole or in part into a new county, shall be holden for, and obliged to pay its proportion of the indebtedness of the county from which it has been taken

## COUNTY SEATS.

§ 4. No county seat shall be removed until the point to which it is proposed to be removed shall be fixed in pursuance of law, and three-fifths of the voters of the county, to be ascertained in such manner as shall be provided by general law, shall have voted in favor of its removal to such point; and no person shall vote on such question who has not resided in the county six months, and in the election precinct 90 days next preceding such election. The question of the removal of a county seat shall not be oftener submitted than once in 10 years, to a vote of the people. But when an attempt is made to remove a county seat to a point nearer to the centre of a county, then a majority vote only shall be necessary.

## COUNTY GOVERNMENT.

§ 5. The general assembly shall provide, by general law, for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting at any general election, shall so determine, and whenever any county shall adopt township organization, so much of this constitution as provides for the management of the fiscal concerns of the said county by the board of county commissioners, may be dispensed with, and the affairs of said county may be transacted in such manner as the general assembly may provide. And in any county that shall have adopted a township organization, the question of continuing the same may be submitted to a vote of the electors of such county, at a general election, in the manner that now is or may be provided by law; and if a majority of all the votes cast upon that question shall be against township organization, then such organization shall cease in said county; and all laws in force in relation to counties not having township organization, shall immediately take effect and be in force in such county. No two townships shall have the same name, and the day of holding the annual township meeting shall be uniform throughout the state.

§ 6. At the first election of county judges under this constitution, there shall be elected in each of the counties in this state, not under

Art. X. § 7.

Constitution of 1870.

Art. XI. § 1.

township organization, three officers, who shall be styled "The board of county commissioners," who shall hold sessions for the transaction of county business as shall be provided by law. One of said commissioners shall hold his office for one year, one for two years, and one for three years, to be determined by lot; and every year thereafter one such officer shall be elected in each of said counties for the term of three years.

§ 7. The county affairs of Cook county shall be managed by a board of commissioners of fifteen persons, ten of whom shall be elected from the city of Chicago, and five from towns outside of said city, in such manner as may be provided by law.

#### COUNTY OFFICERS AND THEIR COMPENSATION.

§ 8. In each county there shall be elected the following county officers: County judge, sheriff, county clerk, clerk of the circuit court, (who may be *ex-officio* recorder of deeds, except in counties having 60,000 and more inhabitants, in which counties a recorder of deeds shall be elected at the general election in the year of our Lord 1872), treasurer, surveyor and coroner, each of whom shall enter upon the duties of his office, respectively, on the first Monday of December after their election; and they shall hold their respective offices for the term of four years, except the treasurer, sheriff and coroner, who shall hold their offices for two years, and until their successors shall be elected and qualified.

§ 9. The clerks of all the courts of record, the treasurer, sheriff, coroner and recorder of deeds of Cook county, shall receive as their only compensation for their services, salaries to be fixed by law, which shall in no case be as much as the lawful compensation of a judge of the circuit court of said county, and shall be paid, respectively, only out of the fees of the office actually collected. All fees, perquisites and emoluments (above the amount of said salaries) shall be paid into the county treasury. The number of the deputies and assistants of such officers shall be determined by rule of the circuit court, to be entered of record, and their compensation shall be determined by the county board.

§ 10. The county board, except as provided in § 9 of this article, shall fix the compensation of all county officers, with the amount of their necessary clerk hire, stationery, fuel and other expenses, and in all cases where fees are provided for, said compensation shall be paid only out of, and shall in no instance exceed, the fees actually collected; they shall not allow either of them more per annum than \$1,500, in counties not exceeding 20,000 inhabitants; \$2,000 in counties containing 20,000 and not exceeding 30,000 inhabitants; \$2,500 in counties containing 30,000 and not exceeding 50,000 inhabitants; \$3,000 in counties containing 50,000, and not exceeding 70,000 inhabitants; \$3,500 in counties containing 70,000 and not exceeding 100,000 inhabitants; and \$4,000 in counties con-

taining over 100,000 and not exceeding 250,000 inhabitants; and not more than \$1,000 additional compensation for each additional 100,000 inhabitants: *Provided*, that the compensation of no officer shall be increased or diminished during his term of office. All fees or allowances by them received, in excess of their said compensation, shall be paid into the county treasury.

§ 11. The fees of township officers, and of each class of county officers, shall be uniform in the class of counties to which they respectively belong. The compensation herein provided for shall apply only to officers hereafter elected, but all fees established by special laws shall cease at the adoption of this constitution, and such officers shall receive only such fees as are provided by general law.

§ 12. All laws fixing the fees of state, county and township officers shall terminate with the terms, respectively, of those who may be in office at the meeting of the first general assembly after the adoption of this constitution; and the general assembly shall, by general law, uniform in its operation, provide for and regulate the fees of said officers and their successors, so as to reduce the same to a reasonable compensation for services actually rendered. But the general assembly may, by general law, classify the counties by population into not more than three classes, and regulate the fees according to class. This article shall not be construed as depriving the general assembly of the power to reduce the fees of existing officers.

§ 13. Every person who is elected or appointed to any office in this state, who shall be paid in whole or in part by fees, shall be required by law to make a semi-annual report, under oath, to some officer to be designated by law, of all his fees and emoluments.

#### ARTICLE XI. CORPORATIONS.

- § 1. *Established only by General Laws.*
- § 2. *Existing Charters — How forfeited.*
- § 3. *Election of Directors or Managers.*
- § 4. *Construction of Street Railroads.*
- § 5. *State Bank Forbidden — General Law.*
- § 6. *Liability of Bank Stockholder.*
- § 7. *Suspension of Specie Payment.*
- § 8. *Of a General Banking Law.*
- § 9. *Railroad office — Books and Records.*
- § 10. *Personal Property of Railroads.*
- § 11. *Consolidations Forbidden.*
- § 12. *Railroads deemed Highways — Rates Fixed.*
- § 13. *Stock, Bonds and Dividends.*
- § 14. *Power over existing Companies.*
- § 15. *Freight and Passenger Tariffs regulated.*

§ 1. No corporation shall be created by special laws, or its charter extended, changed, or amended, except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the state, but the general assembly shall provide, by general laws, for the organization of all corporations hereafter to be created.

Art. XI. § 2.

Constitution of 1870.

Art. XI. § 13.

§ 2. All existing charters or grants of special or exclusive privileges, under which organization shall not have taken place, or which shall not have been in operation within 10 days from the time this constitution takes effect, shall thereafter have no validity or effect whatever.

§ 3. The general assembly shall provide, by law, that in all elections for directors or managers of incorporated companies every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock, shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner.

§ 4. No law shall be passed by the general assembly, granting the right to construct and operate a street railroad within any city, town, or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad.

#### BANKS.

§ 5. No state bank shall hereafter be created, nor shall the state own or be liable for any stock in any corporation or joint stock company or association for banking purposes, now created, or to be hereafter created. No act of the general assembly authorizing or creating corporations or associations, with banking powers, whether of issue, deposit or discount, nor amendments thereto, shall go into effect or in any manner be in force, unless the same shall be submitted to a vote of the people at the general election next succeeding the passage of the same, and be approved by a majority of all the votes cast at such election for or against such law.

§ 6. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities accruing while he or she remains such stockholder.

§ 7. The suspension of specie payments by banking institutions, on their circulation, created by the laws of this state, shall never be permitted or sanctioned. Every banking association now, or which may hereafter be, organized under the laws of this state, shall make and publish a full and accurate quarterly statement of its affairs, (which shall be certified to, under oath, by one or more of its officers) as may be provided by law.

§ 8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of state, of all bills or paper credit, designed to circulate as money, and require security, to the full amount thereof, to be deposited with the state treasurer, in United States or Illinois state stocks, to be rated at 10

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per cent. below their par value; and in case of a depreciation of said stocks to the amount of 10 per cent. below par, the bank or banks owning said stocks shall be required to make up said deficiency, by depositing additional stocks. And said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer thereof, and to whom such transfer is made.

#### RAILROADS.

§ 9. Every railroad corporation organized or doing business in this state, under the laws or authority thereof, shall have and maintain a public office or place in this state for the transaction of its business, where transfers of stock shall be made and in which shall be kept, for public inspection, books, in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in and by whom; the transfers of said stock; the amount of its assets and liabilities, and the names and place of residence of its officers. The directors of every railroad corporation shall, annually, make a report, under oath, to the auditor of public accounts, or some officer to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. And the general assembly shall pass laws enforcing by suitable penalties the provisions of this section.

§ 10. The rolling stock, and all other movable property belonging to any railroad company or corporation in this state, shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the general assembly shall pass no law exempting any such property from execution and sale.

§ 11. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given, of at least 60 days, to all stockholders, in such manner as may be provided by law. A majority of the directors of any railroad corporation, now incorporated or hereafter to be incorporated by the laws of this state, shall be citizens and residents of this state.

§ 12. Railways heretofore constructed or that may hereafter be constructed in this state, are hereby declared public highways, and shall be free to all persons, for the transportation of their persons and property thereon, under such regulations as may be prescribed by law. And the general assembly shall, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this state.

§ 13. No railroad corporation shall issue any stock or bonds, except for money, labor or property, actually received, and applied to the pur-

Art. XI. § 14.

Constitution of 1870.

Art. XIII. § 6.

poses for which such corporation was created; and all stock dividends, and other fictitious increase of the capital stock or indebtedness of any such corporation, shall be void. The capital stock of no railroad corporation shall be increased for any purpose, except upon giving 60 days' public notice, in such manner as may be provided by law.

§ 14. The exercise of the power, and the right of eminent domain shall never be so construed or abridged as to prevent the taking, by the general assembly, of the property and franchises of incorporated companies already organized, and subjecting them to the public necessity the same as of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation, when, in the exercise of the said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right.

§ 15. The general assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this state, and enforce such laws, by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

## ARTICLE XII.

### MILITIA.

- § 1. Persons Composing the Militia.
- § 2. Organization — Equipment — Discipline.
- § 3. Commissions of Officers.
- § 4. Privilege from Arrest.
- § 5. Records, Banners and Relics.
- § 6. Exemptions from militia duty.

§ 1. The militia of the state of Illinois shall consist of all able-bodied male persons, resident in the state, between the ages of 18 and 45, except such persons as now are, or hereafter may be, exempted by the laws of the United States, or of this state.

§ 2. The general assembly, in providing for the organization, equipment and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

§ 3. All militia officers shall be commissioned by the governor, and may hold their commissions for such time as the general assembly may provide.

§ 4. The militia shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at musters and elections, and in going to and returning from the same.

§ 5. The military records, banners and relics of the state, shall be preserved as an enduring memorial of the patriotism and valor of Illinois, and it shall be the duty of the general assembly to provide by law for the safe keeping of the same.

§ 6. No person having conscientious scruples against bearing arms, shall be compelled to do

militia duty in time of peace: *Provided*, such person shall pay an equivalent for such exemption.

## ARTICLE XIII.

### WAREHOUSES.

- § 1. What deemed Public Warehouses.
- § 2. Sworn Weekly Statements required.
- § 3. Examination of Property stored.
- § 4. Carriers to Deliver Full Weight.
- § 5. Delivery of Grain by Railroads.
- § 6. Power and Duty of the Legislature.
- § 7. Grain Inspection — Protection of Dealers.

§ 1. All elevators or storehouses where grain or other property is stored for a compensation, whether the property stored be kept separate or not, are declared to be public warehouses.

§ 2. The owner, lessee or manager of each and every public warehouse situated in any town or city of not less than 100,000 inhabitants, shall make weekly statements under oath, before some officer to be designated by law, and keep the same posted in some conspicuous place in the office of such warehouse, and shall also file a copy for public examination in such place as shall be designated by law, which statement shall correctly set forth the amount and grade of each and every kind of grain in such warehouse, together with such other property as may be stored therein, and what warehouse receipts have been issued, and are, at the time of making such statement, outstanding therefor; and shall, on the copy posted in the warehouse, note daily such changes as may be made in the quantity and grade of grain in such warehouse; and the different grades of grain shipped in separate lots, shall not be mixed with inferior or superior grades, without the consent of the owner or consignee thereof.

§ 3. The owners of property stored in any warehouse, or holder of a receipt for the same, shall always be at liberty to examine such property stored, and all the books and records of the warehouse in regard to such property.

§ 4. All railroad companies and other common carriers on railroads shall weigh or measure grain at points where it is shipped, and receipt for the full amount, and shall be responsible for the delivery of such amount to the owner or consignee thereof, at the place of destination.

§ 5. All railroad companies receiving and transporting grain in bulk or otherwise, shall deliver the same to any consignee thereof, or any elevator or public warehouse to which it may be consigned, provided such consignee or the elevator or public warehouse can be reached by any track owned, leased or used, or which can be used, by such railroad companies; and all railroad companies shall permit connections to be made with their track, so that any such consignee, and any public warehouse, coal bank or coal yard may be reached by the cars on said railroad.

§ 6. It shall be the duty of the general assem-

Art. XIII. § 7.

Constitution of 1870.

Canal.

bly to pass all necessary laws to prevent the issue of false and fraudulent warehouse receipts, and to give full effect to this article of the constitution, which shall be liberally construed so as to protect producers and shippers. And the enumeration of the remedies herein named shall not be construed to deny to the general assembly the power to prescribe by law such other and further remedies as may be found expedient, or to deprive any person of existing common law remedies.

§ 7. The general assembly shall pass laws for the inspection of grain, for the protection of producers, shippers and receivers of grain and produce.

## ARTICLE XIV.

## AMENDMENTS TO THE CONSTITUTION.

- § 1. *By a Constitutional Convention.*  
 § 2. *Proposed by the Legislature.*

§ 1. Whenever two-thirds of the members of each house of the general assembly shall, by a vote entered upon the journals thereof, concur that a convention is necessary to revise, alter or amend the constitution, the question shall be submitted to the electors at the next general election. If a majority voting at the election vote for a convention, the general assembly shall, at the next session provide for a convention, to consist of double the number of members of the senate, to be elected in the same manner, at the same places, and in the same districts. The general assembly shall, in the act calling the convention, designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with the expenses necessarily incurred by the convention in the performance of its duties. Before proceeding the members shall take an oath to support the Constitution of the United States, and of the state of Illinois, and to faithfully discharge their duties as members of the convention. The qualification of members shall be the same as that of members of the senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the general assembly. Said convention shall meet within three months after such election, and prepare such revision, alteration or amendments of the constitution as shall be deemed necessary, which shall be submitted to the electors for their ratification or rejection, at an election appointed by the convention for that purpose, not less than two nor more than six months after the adjournment thereof; and unless so submitted and approved, by a majority of the electors voting at the election, no such revision, alterations or amendments shall take effect.

§ 2. Amendments to this constitution may be proposed in either house of the general assembly, and if the same shall be voted for by two-thirds of all the members elected to each of the two houses, such proposed amendments, together with

the yeas and nays of each house thereon, shall be entered in full on their respective journals, and said amendments shall be submitted to the electors of this state for adoption or rejection, at the next election of members of the general assembly, in such manner as may be prescribed by law. The proposed amendments shall be published in full at least three months preceding the election, and if a majority of the electors voting at said election shall vote for the proposed amendments, they shall become a part of this constitution. But the general assembly shall have no power to propose amendments to more than one article of this constitution at the same session, nor to the same article oftener than once in four years.

## SEPARATE SECTIONS.

- Illinois Central Railroad.*  
*Municipal Subscriptions to Corporations.*  
*Illinois and Michigan Canal.*

## ILLINOIS CENTRAL RAILROAD.

No contract, obligation or liability whatever, of the Illinois Central railroad company, to pay any money into the state treasury, nor any lien of the state upon, or right to tax property of said company, in accordance with the provisions of the charter of said company, approved Feb. 10, in the year of our Lord 1851, shall ever be released, suspended, modified, altered, remitted, or in any manner diminished or impaired by legislative or other authority; and all moneys derived from said company, after the payment of the state debt, shall be appropriated and set apart for the payment of the ordinary expenses of the state government, and for no other purposes whatever.

## MUNICIPAL SUBSCRIPTIONS TO RAILROADS OR PRIVATE CORPORATIONS.

No county, city, town, township, or other municipality, shall ever become subscriber to the capital stock of any railroad or private corporation, or make donation to or loan its credit in aid of, such corporation: *Provided, however,* that the adoption of this article shall not be construed as affecting the right of any such municipality to make such subscriptions where the same have been authorized, under existing laws, by a vote of the people of such municipalities prior to such adoption.

## CANAL.

The Illinois and Michigan Canal shall never be sold or leased until the specific proposition for the sale or lease thereof shall first have been submitted to a vote of the people of the state, at a general election, and have been approved by a majority of all the votes polled at such election. The general assembly shall never loan the credit of the state, or make appropriations from the treasury thereof, in aid of railroads or canals: *Provided,* that any surplus earnings of any canal may be appropriated for its enlargement or extension.

## SCHEDULE.

- § 1. *Laws in Force remain Valid.*
- § 2. *Fines, Penalties and Forfeitures.*
- § 3. *Recognizances, Bonds, Obligations.*
- § 4. *Present County Courts Continued.*
- § 5. *All existing Courts Continued.*
- § 6. *Persons now in Office Continued.*
- § 7. *Election of Supreme Judges.*
- § 8. *Time and Manner of Submission.*
- § 9. *Duty of the Secretary of State.*
- § 10. *New Constitution Ticket.*
- § 11. *Election Returns — How Canvassed.*
- § 12. *In Case of partial Adoption.*
- § 13. *Apportionment of Representatives.*
- § 14. *Election of Members of the First House.*
- § 15. *First Election of Senators.*
- § 16. *Apportionment by the General Assembly.*
- § 17. *Governor to issue Writs of Election.*
- § 18. *English shall be the Official Language.*
- § 19. *Necessary Laws shall be Enacted.*
- § 20. *Present Recorders Continued.*
- § 21. *Compensation of Cook County Judges.*
- § 22. *Circuit Court of Lake County.*
- § 23. *Two-mill Tax Abolished.*
- § 24. *Indebtedness of the City of Quincy.*
- § 25. *Former Constitution to Cease.*
- § 26. *Provisions taking effect Immediately.*

That no inconvenience may arise from the alterations and amendments made in the constitution of this state, and to carry the same into complete effect, it is hereby ordained and declared:

§ 1. That all laws in force at the adoption of this constitution, not inconsistent therewith, and all rights, actions, prosecutions, claims, and contracts of this state, individuals, or bodies corporate, shall continue to be as valid as if this constitution had not been adopted.

§ 2. That all fines, taxes, penalties and forfeitures, due and owing to the state of Illinois under the present constitution and laws, shall inure to the use of the people of the state of Illinois, under this constitution.

§ 3. Recognizances, bonds, obligations, and all other instruments entered into or executed before the adoption of this constitution, to the people of the state of Illinois, to any state or county officer or public body, shall remain binding and valid; and rights and liabilities upon the same shall continue, and all crimes and misdemeanors shall be tried and punished as though no change had been made in the constitution of this state.

§ 4. County courts for the transaction of county business in counties not having adopted township organization, shall continue in existence, and exercise their present jurisdiction until the board of county commissioners provided in this constitution, is organized in pursuance of an act of the general assembly; and the county courts in all other counties shall have the same power and jurisdiction they now possess until otherwise provided by general law.

§ 5. All existing courts which are not in this constitution specifically enumerated, shall con-

tinue in existence and exercise their present jurisdiction until otherwise provided by law.

§ 6. All persons now filling any office or appointment shall continue in the exercise of the duties thereof, according to their respective commissions or appointments, unless by this constitution it is otherwise directed.

§ 7. On the day this constitution is submitted to the people for ratification, an election shall be held for judges of the supreme court in the second, third, sixth and seventh judicial election districts designated in this constitution, and for the election of three judges of the circuit court in the county of Cook as provided for in the article of this constitution relating to the judiciary, at which election, every person entitled to vote, according to the terms of this constitution, shall be allowed to vote, and the election shall be otherwise conducted, returns made and certificates issued, in accordance with existing laws, except that no registry shall be required at said election: *Provided*, that at said election in the county of Cook no elector shall vote for more than two candidates for circuit judge. If, upon canvassing the votes for and against the adoption of this constitution, it shall appear that there has been polled a greater number of votes against than for it, then no certificates of election shall be issued for any of said supreme or circuit judges.

§ 8. This constitution shall be submitted to the people of the state of Illinois for adoption or rejection, at an election to be held on the first Saturday in July, in the year of our Lord 1870, and there shall be separately submitted at the same time, for adoption or rejection, §§ 9, 10, 11, 12, 13, 14 and 15, relating to railroads, in the article entitled corporations; the article entitled counties; the article entitled warehouses; the question of requiring a three-fifths vote to remove a county seat; the section relating to the Illinois Central railroad; the section in relation to minority representation; the section relating to municipal subscriptions to railroads or private corporations; and the section relating to the canal.

Every person entitled to vote under the provisions of this constitution, as defined in the article in relation to "Suffrage," shall be entitled to vote for the adoption or rejection of this constitution, and for or against the articles, sections and question aforesaid, separately submitted; and the said qualified electors shall vote at the usual places of voting, unless otherwise provided; and the said election shall be conducted, and returns thereof made according to the laws now in force regulating general elections, except that no registry shall be required at said election: *Provided, however*, that the polls shall be kept open for the reception of ballots until sunset of said day of election.

§ 9. The secretary of state shall, at least 20 days before said election, cause to be delivered to the county clerk of each county blank poll-books, tally-lists and forms of return, and twice the number of properly prepared printed ballots for the said election that there are voters in such county, the expense whereof shall be audited

Schedule. § 10.

Constitution of 1870.

Schedule. § 14.

and paid as other public printing ordered by the secretary of state is, by law, required to be audited and paid; and the several county clerks shall, at least five days before said election, cause to be distributed to the board of election, in each election district in their respective counties, said blank poll-books, tally-lists, forms of return, and tickets.

§ 10. At the said election the ballots shall be in the following form:

*New Constitution Ticket.*

For all the propositions on this ticket which are not canceled with ink or pencil; and against all propositions which are so canceled. For the new constitution. For the sections relating to railroads in the article entitled corporations. For the article entitled counties. For the article entitled warehouses. For a three-fifths vote to remove county seats. For the section relating to the Illinois Central railroad. For the section relating to minority representation. For the section relating to municipal subscriptions to railroads or private corporations. For the section relating to the canal.

Each of said tickets shall be counted as a vote cast for each proposition thereon not canceled with ink or pencil, and against each proposition so canceled, and returns thereof shall be made accordingly by the judges of election.

§ 11. The returns of the whole vote cast, and of the votes for the adoption or rejection of this constitution, and for or against the articles and sections respectively submitted, shall be made by the several county clerks, as is now provided by law, to the secretary of state, within 20 days after the election; and the returns of the said votes shall, within five days thereafter, be examined and canvassed by the auditor, treasurer and secretary of state, or any two of them, in the presence of the governor, and proclamation shall be made by the governor, forthwith, of the result of the canvass.

§ 12. If it shall appear that a majority of the votes polled are "for the new constitution," then so much of this constitution as was not separately submitted to be voted on by articles and sections, shall be the supreme law of the state of Illinois, on and after Monday, the 8th day of August, A. D. 1870; but if it shall appear that a majority of the votes polled were "against the new constitution," then so much thereof as was not separately submitted to be voted on by articles and sections, shall be null and void. If it shall appear that a majority of the votes polled, are "for the sections relating to railroads in the article entitled 'Corporations';" §§ 9, 10, 11, 12, 13, 14 and 15, relating to railroads in the said article, shall be a part of the constitution of this state; but if a majority of said votes are against such sections, they shall be null and void. If a majority of the votes polled are "for the article entitled 'counties,'" such article shall be a part of the constitution of this state and shall be substituted for Article VII. in the present constitution entitled "Counties;" but if a majority of said votes are against such article, the same shall

be null and void. If a majority of the votes polled are for the article entitled "Warehouses," such article shall be a part of the constitution of this state, but if a majority of the votes are against said article, the same shall be null and void. If a majority of the votes polled are for either of the sections separately submitted, relating respectively, to the "Illinois Central railroad," "Minority representation," "Municipal subscriptions to railroads or private corporations," and the "Canal," then such of said sections as shall receive such majority shall be a part of the constitution of this state; but each of said sections so separately submitted against which, respectively, there shall be a majority of the votes polled, shall be null and void: *Provided*, that the section relating to "Minority representation," shall not be declared adopted unless the portion of the constitution not separately submitted to be voted on by articles and sections shall be adopted, and in case said section relating to "Minority representation" shall become a portion of the constitution, it shall be substituted for §§ 7 and 8 of the legislative article. If a majority of the votes cast at such election shall be for a three-fifths vote to remove a county seat, then the words "a majority" shall be stricken out of § 4 of the article on counties, and the words "three-fifths" shall be inserted in lieu thereof; and the following words shall be added to said section, to wit: "But when an attempt is made to remove a county seat to a point nearer to the center of a county, then a majority vote only shall be necessary." If the foregoing proposition shall not receive a majority of the votes, as aforesaid, then the same shall have no effect whatever.

§ 13. Immediately after the adoption of this constitution, the governor and secretary of state shall proceed to ascertain and fix the apportionment of the state for members of the first house of representatives under this constitution. The apportionment shall be based upon the federal census of the year of our Lord 1870 of the state of Illinois, and shall be made strictly in accordance with the rules and principles announced in the article on the legislative department of this constitution: *Provided*, that in case the federal census aforesaid cannot be ascertained prior to Friday, the 23d day of September, in the year of our Lord 1870, then, the said apportionment shall be based on the state census of the year of our Lord 1865, in accordance with the rules and principles aforesaid. The governor shall, on or before Wednesday, the 28th day of September, in the year of our Lord 1870, make official announcement of the said apportionment, under the great seal of the state; and 100 copies thereof, duly certified, shall be forthwith transmitted by the secretary of state to each county clerk for distribution.

§ 14. The districts shall be regularly numbered, by the secretary of state, commencing with Alexander county as number one, and proceeding then northwardly through the state, and terminating with the county of Cook; but no county shall be numbered as more than one

district, except the county of Cook, which shall constitute three districts, each embracing the territory contained in the now existing representative districts of said county. And on the Tuesday after the first Monday in November, in the year of our Lord 1870, the members of the first house of representatives under this constitution shall be elected according to the apportionment fixed and announced as aforesaid, and shall hold their offices for two years, and until their successors shall be elected and qualified.

§ 15. The senate, at its first session under this constitution, shall consist of 50 members, to be chosen as follows: At the general election held on the first Tuesday after the first Monday of November, in the year of our Lord 1870, two senators shall be elected in districts where the term of senators expire on the first Monday of January, in the year of our Lord 1871, or where there shall be a vacancy, and in the remaining districts one senator shall be elected. Senators so elected shall hold their office two years.

§ 16. The general assembly, at its first session held after the adoption of this constitution, shall proceed to apportion the state for members of the senate and house of representatives, in accordance with the provisions of the article on the legislative department.

§ 17. When this constitution shall be ratified by the people, the governor shall forthwith, after having ascertained the fact, issue writs of election to the sheriffs of the several counties of this state, or in case of vacancies, to the coroners, for the election of all the officers, the time of whose election is fixed by this constitution or schedule, and it shall be the duty of said sheriffs or coroners to give such notice of the time and place of said election as is now prescribed by law.

§ 18. All laws of the state of Illinois, and all official writings, and the executive, legislative and judicial proceedings, shall be conducted, preserved and published in no other than the English language.

§ 19. The general assembly shall pass all laws necessary to carry into effect the provisions of this constitution.

§ 20. The circuit clerks of the different counties having a population over 60,000, shall continue to be recorders (*ex-officio*) for their respective counties, under this constitution, until the expiration of their respective terms.

§ 21. The judges of all courts of record in Cook county shall, in lieu of any salary provided for in this constitution, receive the compensation now provided by law until the adjournment of the first session of the general assembly after the adoption of this constitution.

§ 22. The present judge of the circuit court of Cook county shall continue to hold the circuit court of Lake county until otherwise provided by law.

§ 23. When this constitution shall be adopted, and take effect as the supreme law of the state of Illinois, the two-mill tax provided to be annually assessed and collected upon each dollar's worth of taxable property, in addition to all other taxes, as set forth in Article XV. of the now existing constitution, shall cease to be assessed after the year of our Lord 1870.

§ 24. Nothing contained in this constitution shall be so construed as to deprive the general assembly of power to authorize the city of Quincy to create any indebtedness for railroad or municipal purposes for which the people of said city shall have voted and to which they shall have given, by such vote, their assent, prior to the 13th day of December, in the year of our Lord 1869: *Provided*, that no such indebtedness, so created, shall, in any part thereof be paid by the state, or from any state revenue tax or fund, but the same shall be paid, if at all, by the said city of Quincy alone, and by taxes to be levied upon the taxable property thereof; *And provided further*, that the general assembly shall have no power in the premises, that it could not exercise under the present constitution of this state.

§ 25. In case this constitution, and the articles and sections submitted separately, be adopted, the existing constitution shall cease in all its provisions, and in case this constitution be adopted, and any one or more of the articles or sections submitted separately be defeated, the provisions of the existing constitution, if any, on the same subject shall remain in force.

§ 26. The provisions of this constitution required to be executed, prior to the adoption or rejection thereof, shall take effect and be in force immediately.

Done in Convention at the capitol, in the city of Springfield, on the 13th day of May, in the year of our Lord one thousand eight hundred and seventy, and of the Independence of the United States of America the ninety-fourth.

## TOWNSHIP ORGANIZATION.

*Counties which have adopted it are in Italics.*

<i>County.</i>	<i>County Seat.</i>	<i>County.</i>	<i>County Seat.</i>
<i>Adams</i> .....	<i>Quincy</i> .	<i>Lee</i> .....	<i>Dixon</i> .
Alexander .....	Cairo.	<i>Livingston</i> .....	<i>Pontiac</i> .
Bond.....	Greenville.	<i>Logan</i> .....	<i>Lincoln</i> .
<i>Boone</i> .....	<i>Belvidere</i> .	<i>Macon</i> .....	<i>Decatur</i> .
<i>Brown</i> .....	<i>Mt. Sterling</i> .	<i>Macoupin</i> .....	<i>Carlinville</i> .
<i>Bureau</i> .....	<i>Princeton</i> .	<i>Madison</i> .....	<i>Edwardsville</i> .
Calhoun .....	Hardin.	<i>Marion</i> .....	Salem.
<i>Carroll</i> .....	<i>Mt. Carroll</i> .	<i>Marshall</i> .....	<i>Lacon</i> .
Cass .....	Beardstown.	<i>Mason</i> .....	<i>Havana</i> .
<i>Champaign</i> .....	<i>Urbana</i> .	<i>Massac</i> .....	<i>Metropolis</i> .
<i>Christian</i> .....	<i>Taylorville</i> .	<i>McDonough</i> .....	<i>Macomb</i> .
<i>Clark</i> .....	<i>Marshall</i> .	<i>McHenry</i> .....	<i>Woodstock</i> .
<i>Clay</i> .....	<i>Louisville</i> .	<i>McLean</i> .....	<i>Bloomington</i> .
Clinton .....	Carlyle.	<i>Menard</i> .....	<i>Petersburg</i> .
<i>Coles</i> .....	<i>Charleston</i> .	<i>Mercer</i> .....	<i>Aledo</i> .
<i>Cook</i> .....	<i>Chicago</i> .	<i>Monroe</i> .....	Waterloo.
<i>Crawford</i> .....	<i>Robinson</i> .	<i>Montgomery</i> .....	Hillsboro.
<i>Cumberland</i> .....	<i>Majority Point</i> .	<i>Morgan</i> .....	Jacksonville.
<i>De Kalb</i> .....	<i>Sycamore</i> .	<i>Moultrie</i> .....	<i>Sullivan</i> .
<i>De Witt</i> .....	<i>Clinton</i> .	<i>Ogle</i> .....	<i>Oregon</i> .
<i>Douglas</i> .....	<i>Tuscola</i> .	<i>Peoria</i> .....	<i>Peoria</i> .
<i>Du Page</i> .....	<i>Wheaton</i> .	<i>Perry</i> .....	<i>Pinckneyville</i> .
<i>Edgar</i> .....	<i>Paris</i> .	<i>Piatt</i> .....	<i>Monticello</i> .
Edwards .....	Albion.	<i>Pike</i> .....	<i>Pittsfield</i> .
<i>Effingham</i> .....	<i>Effingham</i> .	<i>Pope</i> .....	Golconda.
<i>Fayette</i> .....	<i>Vandalia</i> .	<i>Pulaski</i> .....	Mound City.
<i>Ford</i> .....	<i>Paxton</i> .	<i>Putnam</i> .....	<i>Hennepin</i> .
<i>Franklin</i> .....	<i>Benton</i> .	<i>Randolph</i> .....	Chester.
<i>Fulton</i> .....	<i>Lewistown</i> .	<i>Richland</i> .....	<i>Olney</i> .
Gallatin .....	Shawneetown.	<i>Rock Island</i> .....	<i>Rock Island</i> .
Greene .....	Carrollton.	<i>Saline</i> .....	Harrisburg.
<i>Grundy</i> .....	<i>Morris</i> .	<i>Sangamon</i> .....	<i>Springfield</i> .
Hamilton .....	McLeansboro.	<i>Schuyler</i> .....	Rushville.
<i>Hancock</i> .....	<i>Carthage</i> .	<i>Scott</i> .....	Winchester.
Hardin .....	Elizabethtown.	<i>Shelby</i> .....	<i>Shelbyville</i> .
Henderson.....	Oquawka.	<i>Stark</i> .....	<i>Toulon</i> .
<i>Henry</i> .....	<i>Cambridge</i> .	<i>St. Clair</i> .....	Belleville.
<i>Iroquois</i> .....	<i>Watseka</i> .	<i>Stephenson</i> .....	<i>Freeport</i> .
<i>Jackson</i> .....	<i>Murphysboro</i> .	<i>Tazewell</i> .....	<i>Pekin</i> .
<i>Jasper</i> .....	<i>Newton</i> .	<i>Union</i> .....	Jonesboro.
<i>Jefferson</i> .....	<i>Mt. Vernon</i> .	<i>Vermilion</i> .....	Danville.
<i>Jersey</i> .....	<i>Jerseyville</i> .	<i>Wabash</i> .....	<i>Mt. Carmel</i> .
<i>Jo Daviess</i> .....	<i>Galena</i> .	<i>Warren</i> .....	<i>Monmouth</i> .
Johnson .....	Vienna.	<i>Washington</i> .....	Nashville.
Kane .....	Geneva.	<i>Wayne</i> .....	<i>Fairfield</i> .
<i>Kankakee</i> .....	<i>Kankakee City</i> .	<i>White</i> .....	<i>Carmi</i> .
Kendall .....	Yorkville.	<i>Whiteside</i> .....	<i>Morrison</i> .
<i>Knox</i> .....	<i>Knoxville</i> .	<i>Will</i> .....	<i>Joliet</i> .
<i>Lake</i> .....	<i>Waukegan</i> .	<i>Williamson</i> .....	Marion.
<i>La Salle</i> .....	Ottawa.	<i>Winnebago</i> .....	<i>Rockford</i> .
<i>Lawrence</i> .....	Lawrenceville.	<i>Woodford</i> .....	<i>Metamora</i> .

# CHAPTER 37.

## ELECTIONS.

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*Presidential Electors - - - Election Precincts.*

*Laws 1849, 71. 12 Feb. § 1. P. 526. S. 474.* **1. PRESIDENTIAL ELECTORS.]** There shall be elected by general ticket on the Tuesday next after the first Monday in November, preceding the expiration of the term of office of each president of the United States, as many electors of president and vice president of the United States as this state may be entitled to elect; which election shall be conducted and returns thereof made as hereinafter provided: *Provided*, that if congress should hereafter fix a different day for such election, then the election for electors shall be held on such day as shall be named by act of congress.

*R. S. § 2, 214. P. 515. S. 464.* **2. VOTE CANVASSED.]** The clerks of the several county *commissioners' courts*, shall, within eight days next after holding an election for electors as is provided for in this chapter, make three copies of the abstract of votes for electors, and transmit by mail one of said copies to the governor or person administering the government, another to the office of the secretary of state, and retain the third in his office, to be sent for by the governor, in case both the others should be mislaid. Within 20 days after the holding of such election, and sooner if all the returns are received by either the governor or person administering the government, or by the secretary of state, the secretary of state, auditor of public accounts and treasurer, or any two of them, shall, in the presence of the governor or person administering the government, proceed to open and canvass said election returns, and to declare the persons having the highest number of votes elected; but should any two or more persons be returned with an equal and the highest vote, the said secretary of state, shall cause a notice of the same to be published in the paper printed by the public printer, which notice shall name some day and place, not less than five days from the time of the publication of such notice, upon which the said secretary, auditor and treasurer, will decide by lot which of said persons so equal and highest are elected; and upon the day and at the place so appointed in said notice, the said secretary, auditor and treasurer, or any two of them, shall, in the presence of the governor or person administering the government, decide by lot which of the persons so equal and highest shall be elected.

*Ibid. § 3.* **3. RESULT PUBLISHED.]** The governor or person administering the government, shall cause the result of the said election to be published in the paper printed by the public printer, and shall transmit by mail to the persons elected, certificates of their election.

*Ibid. § 4.* **4. MEETING OF THE ELECTORS.]** The electors chosen as aforesaid, shall meet at the seat of government of this state, at the time appointed by the laws of the United States, and give their votes in the manner therein provided, and perform such duties as are or may be required by law. Each elector shall receive for every 20 miles necessary travel in going to the seat of government to give his vote, and in returning to his residence, to be computed by the most usual route, the sum of \$3. to be paid on the warrant of the auditor, out of any money in the treasury, not otherwise appropriated.

*Ibid. § 5.* **5. ELECTOR NOT ATTENDING.]** In case any person, declared duly elected an elector of president and vice president of the United States, shall fail to attend at the state house, at the seat of government of this state, at or before the hour of 12 o'clock at noon, of the day on which his vote is required to be given, it shall be the duty of the elector or electors of president and vice president, attending at that time and place, to appoint a person or persons to fill such vacancy: *Provided*, that should the person or persons, chosen by the people as aforesaid, arrive at the place aforesaid, before the votes for president and vice president are actually given, the person or persons appointed to fill such vacancy, shall not act as elector of president and vice president.

§ 6 Time of holding general elections; repealed by § 21 of the following act:

*Laws 1849, 71. 12 Feb. § 2. P. 526. S. 474.* **6. TIME OF GENERAL ELECTIONS.]** All general elections for the election of governor, lieutenant governor, secretary of state, auditor of public accounts, state treasurer, representatives to congress, senators and representatives to the general assembly, and county officers, shall be held on the Tuesday next after the first Monday of November biennially, except for such offices as are directed to be chosen at other times than biennially; which elections shall be conducted as is directed by this act and the act to which this is an amendment.

*R. S. § 7. 215. P. 516. S. 465.* **7. ELECTION PRECINCTS — VOTING PLACES.]** The county *commissioners' courts* of the several counties in this state, are hereby authorized to

*Appointment of Judges - - - Filling Vacancies.*

divide their respective counties into as many election precincts, for all general and special elections, as they may think expedient for the convenience of the voters of said county, and to appoint as many sets of judges of elections, to receive votes at the county seats, as they may think necessary; and shall designate the house or place in each precinct, and in the precinct, including the county seat, the house or houses, place or places, at which elections are to be held; and the precincts and places of holding elections, so established, shall so remain until changed by the county *commissioners' court*: And all general and special elections shall be held at the places so designated until changed as aforesaid: *Provided always*, that it shall be the duty of the county *commissioners' court* at any time, to change any place of holding elections, upon a petition of a majority of voters residing within the precinct.

*Ibid. § 8. 8. APPOINTMENT OF JUDGES.]* The said county *commissioners' courts* shall, respectively, at the last stated term preceding any election, appoint three capable and discreet persons, possessing the qualifications of electors, to act as judges of the election in each election precinct; and the clerk of the said court shall make out and deliver to the sheriff of the county, immediately after the appointment of said judges, a notice thereof in writing, directed to the judges so appointed; and it shall be the duty of the said sheriff, within 20 days after the receipt of said notice, to serve said notice upon each of the said judges of election.

*Laws 1847, 47. 23 Feb. § 1. P. 526. S. 478. 9. OTHER SETS OF JUDGES. \* \**  
The preceding section] is hereby so amended, as to give the county commissioners of the several counties in this state, power and authority to establish more than one set of judges of election, in such precincts in their respective counties, when, in their opinion, the same may be necessary for the purpose of receiving votes at all general or special elections; and the said county commissioners may appoint as many sets of judges of election, in any precinct in their counties, as, in their judgment, may be necessary for the convenience of the voters: *Provided*, they shall not establish more than one set of judges of election in any precinct where less than 300 votes are usually polled at a general election.

*R. S. § 9, 215. P. 516. S. 465. 10. CLERKS OF ELECTION.]* The said judges of the election shall choose two persons, having similar qualifications with themselves, to act as clerks of the election. The said judges of the election shall be and continue judges of all elections of civil officers to be held within their precinct, until other judges shall be appointed as hereinbefore directed; and the said clerks of election may continue to act as such during the pleasure of the judges of the election. And the county *commissioners' courts* shall, from time to time, fill all vacancies which may take place in the office of judge of the election, in any election precinct within their respective counties.

*Ibid. § 10. 11. NOTICES.]* The clerks of the several county *commissioners' courts* shall, at least 30 days previous to any general election, and at least 20 days previous to any special election, make out and deliver to the sheriff of his county, three written notices thereof, for each precinct, said notices to be, as nearly as circumstances will admit, as follows, to-wit:

Notice is hereby given, that on Monday, the . . . day of . . . next, at the house of . . . in . . . precinct, in the county of . . . an election will be held for governor, one lieutenant governor, one representative to the congress of the United States, one senator, three representatives in the general assembly of this state, one sheriff, one coroner, *three county commissioners*, etc., (as the case may require,) which election will be opened at eight o'clock in the morning, and will continue open until six o'clock in the afternoon of the same day. Dated at . . . this . . . day of . . . in the year of our Lord one thousand eight hundred and . . .

A. B.

Clerk of the county *commissioners' court* of . . . county.

And the said sheriff to whom such notices shall be delivered as aforesaid, shall post up . . . three of the most public places in each precinct, the three notices referring to such precinct, at least 15 days before the time of holding any general election, and at least eight days before the time of holding any special election.

*Ibid. § 11. 12. FILLING VACANCIES.]* If any person appointed to act as a judge of the election as aforesaid, shall neglect or refuse to be sworn or affirmed to act in such capacity, the place of such person shall be filled by any justice of the peace, residing within the precinct, to be nominated by the other judge or judges of the election; and if there be no other justice present to act as judge, the other judge or judges of the election shall nominate one or more capable and discreet elector or electors residing within

*Oath - - - Adjournment.*

the precinct, to fill such vacancy or vacancies; and if there be no judge of the election present to fill such vacancy or vacancies by nomination, then such vacancy or vacancies shall be filled by the votes of such qualified electors, residing within the precinct, as may then be present at the place of election; and the justice or justices, person or persons, so elected or nominated to fill such vacancy or vacancies, shall be, and are hereby vested with the same power as if appointed by the county *commissioners' court*.

*Ibid.* § 12. **13. OATH.]** Previous to any votes being taken, the judges and clerks of the election shall severally take an oath or affirmation, in the following form, to-wit:

I, A. B., do solemnly swear, (or affirm, as the case may be,) that I will perform the duties of judge, (or clerk, as the case may be,) according to law and the best of my ability; that I will studiously endeavor to prevent fraud, deceit and abuse, in conducting the same.

*Ibid.* § 13. **14.]** In case there shall be no judge or justice of the peace present at the opening of the election, or in case such judge or justice shall be appointed a judge or clerk of the election, it shall be lawful for the judges of the election, and they are hereby empowered to administer the oaths or affirmations to each other, and to the clerks of the election; and the person administering such oaths or affirmations, shall cause an entry thereof to be made and subscribed by him, and prefixed to the poll-books.

*Ibid.* § 14. **15. OPENING AND CLOSING THE POLLS.]** At all elections to be held under this chapter, the polls shall be opened at the hour of eight in the morning, and continue open until six o'clock in the afternoon of the same day, at which time the polls shall be closed: *Provided, however,* that if no judge shall attend at the hour of eight in the morning, and it shall be necessary for the electors present to appoint judges to conduct the election, as hereinbefore prescribed, the election may, in that case, commence at any hour before the time for closing the polls shall arrive, as the case may require: *And, provided also,* that the judges of the election may, if they shall deem it necessary, for the purpose of receiving the votes of all the electors wishing to vote, postpone the closing of the polls until 12 o'clock at night. And upon opening the polls, one of the clerks, under the direction of the judges, shall make proclamation of the same, and 30 minutes before the closing of the polls, proclamation shall be made in like manner that the polls will be closed in half an hour.

§ 15. Voting to be viva voce; repealed by § 21 of the following act:

*Laws 1849.* 74. 12 Feb. § 15. P. 529. S. 477. **16. METHOD OF VOTING.]** The method of voting shall be by ballot, which ballot shall be folded by the voter and delivered to one of the judges or board of election, who shall, without unfolding or opening the same in any manner, deposit the said ballot in the said ballot-box: *Provided,* that no ballot shall be received or counted unless the same is written or printed upon white paper, without any marks or figures thereon, intended to distinguish one ballot from another.— [But blue paper with ruled lines, not placed there as marks may be used; *The People v. Kilduff*, 15 Ill. 492.

*Ibid.* § 13. **17. FORM OF THE TICKET.]** Every ticket handed in shall contain the name of every candidate such voter intends voting for, either in writing or print, designating the office to which he wishes each to be elected; and if more persons are designated for any office than there are candidates to be elected, such part of the ticket shall not be counted for either of them; but no vote shall be rejected for the want of form, if the judges or board of election can determine therefrom, to their satisfaction, the person voted for, and the office which the voter intended such person should fill.

*Laws 1861.* 268. 22 Feb. § 5. **18. BALLOT INDORSED.]** At all elections, general or special, in this state, where the vote is by ballot, if the judges of elections are satisfied, under the provisions of this act, and the other laws of this state relating to elections, that the person offering the vote is a legal voter, he shall indorse on the back of the ticket offered the number corresponding with the number of the voter on the poll-book, and put said ticket immediately in the ballot-box; and the clerks of the election shall enter the name of the voter and his number in the poll-book.

*Laws 1865.* 59. 15 Feb. § 16. **19. \*** The preceding section] shall be construed so as to require the number to be indorsed by the judges or inspectors of election on every ballot cast, and in all elections, general or special, in pursuance of any law of this state.

**ADJOURNMENT.]** After the opening of the polls, no adjournment shall be had, nor

*Voting More than Once - - - Keeping Order.*

**Superseded**

shall any recess be taken until all the votes cast at such election shall have been counted, and the result publicly announced: *Provided*, that judges and inspectors of elections shall each be allowed the sum of \$2. for each and every day's service by them performed under the requirements of this act.

§ 16. Voting to be out of the precinct in certain cases; repealed by § 21 of act of 12 Feb. 1849 above cited.

R. S. § 17, 217. P. 518. S. 467. **20. VOTING MORE THAN ONCE.**] If any elector shall vote more than once at any election held under the authority of this chapter, he shall be fined in the sum of \$100., to be recovered by indictment before any court of competent jurisdiction; and the whole of such fine shall be appropriated to the use of the county in which the offense may have been committed.

Laws 1849, 73. 12 Feb. § 12. **21. TWO TICKETS TOGETHER.**] Each qualified voter may vote once and no more; and if any person shall attempt to vote more than once, or to hand in two or more tickets folded together, every person so offending shall be liable to indictment, and on conviction shall be fined in any sum not exceeding \$50.

Laws 1861, 268. 22 Feb. § 4. **22. UNQUALIFIED VOTING.**] If any person shall vote more than once at any election held under the authority of the laws of this state, or shall vote at any such election, who is not a qualified voter at the place where he so votes, or shall offer to vote, after having once voted at such election, he shall, on conviction thereof, be confined in the penitentiary for any term not less than one or more than five years.

§ 18. Qualifications of voters and proceedings in case of challenge; repealed by § 21 of the following act:

Laws 1849, 72. 12 Feb. § 10. **23. QUALIFICATION OF VOTERS — CHALLENGES.**] At any and all elections held in this state, every *white* male citizen above the age of 21 years, having resided in this state one year next preceding any election, and every white male inhabitant of the age aforesaid, who was a resident of this state on the first day of April, A. D., 1848, shall be entitled to vote at any election; but no person shall be entitled to vote except in the precinct, place, or township where a poll shall be held, in which he shall actually reside at the time of such election: *Provided*, that when any such person shall offer his vote and either of the judges of the election shall suspect that such person is not a qualified voter, or if his vote shall be challenged by any elector, the judge of the election shall tender to such person the following oath or affirmation:

You do solemnly swear (or affirm, as the case may be,) that you are a resident of this precinct, place, or township, that you are a citizen of this state, and have resided herein one year preceding this election, or that you was an inhabitant of this state on the first day of April, in the year of our Lord 1848, that you are above the age of 21 years, and that you have not voted at this election: So help you God.

Every vote offered by any person who shall refuse to take the foregoing oath shall be rejected.

R. S. § 19, 217. P. 518. S. 467. **24. AFTER THE OATH.**] If any person so offering his vote at such election, shall take such oath or affirmation, or shall offer to take such oath or affirmation, as prescribed in \* \* [§ 18, now repealed,] his vote shall be received, unless it shall be proved by evidence satisfactory to a majority of the judges, that such oath or affirmation is false; and if such person shall refuse to take such oath or affirmation, his vote shall be rejected; and if any person shall take the oath or affirmation as is before named, knowing such oath or affirmation to be false, he shall be deemed guilty of wilful and corrupt perjury, and punished accordingly. — [Consult also § 49.]

Laws 1849, 75. 12 Feb. § 20. **25. PENALTIES AGAINST JUDGES.**] If any judge or the judges of any election shall refuse to receive the vote of any qualified elector who shall take, or offer to take, the oath prescribed by this act, in such case every judge so refusing or neglecting to receive the vote or ballot, or opening or unfolding such ballot, when the same shall be presented, shall be liable to be indicted, and, on conviction, shall be fined \$500., and imprisonment [imprisoned] not exceeding 30 days; and for every refusal or neglect to receive such vote, the party aggrieved may have an action on the case against the said judge or judges; the damages in such case shall not exceed the sum of \$500.

§ 20. Unqualified voting; changed by § 22 above.

R. S. § 21. **26. KEEPING ORDER.**] For the preservation of order, as well as the security of the judges and clerks of the election from insult and abuse, it shall be the duty of any constable or constables residing within the precinct, who shall be designated

**Repealed: See ELECTIONS § 239.**

*Keeping Order - - - Certificate of Election.*

for the purpose, by the judges of the election, to attend at all elections within such precinct ; and should no constable attend at such election, the judges of election are hereby authorized and empowered to appoint one or more special constables to assist in preserving order during the election ; and the judges are hereby empowered to impose a fine, not exceeding \$20., on any person or persons who shall conduct in a disorderly and riotous manner, and persist in such conduct after having been warned of its consequences ; and on refusal to pay the same, to commit him or them to the common jail of the county, for any time, not exceeding 20 days, or until the fine shall be paid ; and the constable to whom the order shall be directed, and the jailer of the county, are hereby required to execute such order, and receive such person or persons so committed, as though it had been issued or delivered by a magistrate in due form of law.

*Ibid.* § 22. **27.**] The county commissioners' court in each county, may, if necessary, appoint some constable to attend each precinct, and preserve order during said election ; and the said constable shall have authority to call to his aid a sufficient number of citizens to suppress any riot or other disorderly conduct during said election, and there shall be paid to said constable out of the county treasury; a sum not exceeding \$1. a day for said services.

*Ibid.* § 23. **28. CERTIFICATE.]** When the votes shall have been examined and counted, the clerks shall set down in their poll books, the name of every person voted for, written at full length, the office for which such person received such vote or votes, and the number he did receive, the number being expressed in words at full length ; such entry to be made, as nearly as circumstances will admit, in the following form, to-wit:

At an election held at the house of . . . in . . . precinct, in the county of . . . and state of Illinois on the . . . day of . . . in the year of our Lord one thousand eight hundred and . . . , the following named persons received the number of votes annexed to their respective names, for the following described offices, to-wit :

A. B. had fifty-three votes for governor.	C. D. had fifty-one votes for governor. * * * (And in the same manner for any other persons or officers voted for.) Certified by us,	A. B., } C. D., } Judges of the election. E. F., }
Attest: G. H., { Clerks of the election. I. J., }		

*Laws 1849, 74. 12 Feb. § 17. P. 529. S. 477. 29. CANVASS OF VOTES.]* As soon as the polls at any election shall have finally closed, the judges, or board and clerks, may adjourn the counting and canvassing of the votes to some convenient hour of the next ensuing day, at which time they shall proceed to canvass the votes polled, by first counting the whole number of ballots in the box ; if the ballots shall be found to exceed the number of names entered on each of the poll lists, they shall be replaced in the box, and one of the judges shall publicly draw out and destroy so many ballots unopened as shall be equal to such excess, and the ballots or poll lists agreeing, or being made to agree, the board shall proceed to count and estimate and publish the votes.

*Ibid.* § 18. **30. TALLY LISTS.]** As the judges or board of election shall open and read the tickets, each clerk shall carefully mark down the votes each candidate shall receive, in separate columns prepared for that purpose, with the name of such candidate at the head of such column, and the office or place it is designed by the voters such candidate shall fill ; but if, on such canvassing, two tickets shall be found deceitfully folded together, they shall both be rejected, as if the same had never been deposited in the ballot-box.

*Ibid.* § 19. **31. CERTIFICATE OF ELECTION.]** As soon as all the votes shall have been read off and counted, the judges or board of election shall make out a certificate under their hands, stating the number of votes each candidate received, designating the office for which such person received such vote or votes, as is prescribed and directed by § 23 of Chap. 37 of the revised statutes, entitled "Elections;" and the said certificate, together with one of the lists of voters, and one of the tally papers, shall be put into the hands of one of the judges or board of election, who shall, within four days thereafter, deliver the same to the clerk of the county court, or his deputy, at the county seat, or place of holding county courts ; and, when received, such clerk or deputy shall proceed to open, canvass and publish the return from each precinct, township or place, as is now provided by law.

*Laws 1861, 269. 22 Feb. § 6. 32. AFTER THE POLLS CLOSE.]* At the close of the polls, the poll-books shall be signed by the judges and attested by the clerks ; the names

*Disposition of Ballots - - - Compensation of Judges, etc.*

therein contained shall then be counted, and the number set down at the foot of the poll-books.

*Ibid. § 7.* **33. DISPOSITION OF THE BALLOTS.]** All the ballots counted by the judges of election shall, after being read, be strung upon a strong thread or twine, in the order in which they have been read, and shall then be carefully enveloped and sealed up by the judges, who shall direct the same to the officer or officers to whom by law they are required to return the poll-books, and shall be delivered, together with said poll-books, to said officer or officers, who shall carefully preserve said ballots for six months, and at the expiration of that time shall destroy them. And in all cases of contested election, the parties contesting the same shall have the right to have the said package of ballots opened, and said ballots referred to by witnesses for the purpose of such contest. But said ballots shall only be so examined and referred to in the presence of the officer having the custody thereof.

§ 24. Messenger to carry the poll books ; repealed by the act 12 Feb. 1849 ; Laws 1849, 75 § 21.

*R. S. § 25, 219. P. 520. S. 468.* **34. ABSTRACT OF VOTES — CERTIFICATE OF ELECTION.]** On the seventh day after the close of the election, or sooner if all the returns be received, the clerk of the county *commissioners' court*, taking to his assistance two justices of the peace of his county, shall proceed to open the said returns, and make abstracts of the votes in the following manner : the abstract of the votes for governor and lieutenant governor shall be on one sheet, and the abstract of votes for representatives to congress shall be on another sheet, and the abstract of votes for senator and representatives to the general assembly shall be on another sheet, and the abstract of votes for county officers shall be on another sheet ; or if the election shall have been holden for presidential electors, the abstract of votes shall be on one sheet ; and it shall be the duty of the said clerk of the county *commissioners' court*, immediately to make out a certificate of election to each of the persons having the highest number of votes for senator and representatives to the general assembly and county officers respectively, and to deliver such certificate to the person entitled to it, on his making application for that purpose to the clerk at his office.

*Ibid. § 26.* **35. SENATORIAL AND REPRESENTATIVE DISTRICTS.]** But where two or more counties are united in one senatorial or representative district, the clerk of the county *commissioners' court* of the county last established, shall, within 12 days after the day of the election, attend at the office of the clerk of the county *commissioners' court* of the senior county, and there, in conjunction with the clerk or clerks of the senior county or counties, shall compare the votes given in the several counties composing such senatorial or representative district ; and said clerks shall immediately make out a certificate of the election of the person or persons having the highest number of votes in such counties for senator or representatives to the general assembly : which certificate shall be delivered to the person entitled to it, on his application to the clerk of the county *commissioners' court* of the senior county at his office ; and it shall be the duty of the county *commissioners' court* of the county where the polls are so compared, to compute the number of miles each clerk or other person shall travel in going and returning from the county where he is so appointed, to the place of comparing the polls : and it shall be the duty of the county *commissioners' court* where the polls are so compared, to make an allowance to said clerks or other persons who may take the vote of each county as aforesaid, a compensation not exceeding six cents per mile, going to and returning from said place of comparing, to be paid equally out of the county treasuries of the respective counties in which said clerk or other person may be appointed ; and it shall be the further duty of the county *commissioners' courts*, when the polls are so compared, to make an estimate of all the expense so incurred by the counties respectively voting together, and divide the same among said counties so voting, respectively, and shall give to each clerk or other person, a certified statement of the same, under the seal of said court ; and it shall be the duty of the county *commissioners' court* of the county where said clerk or other person shall be appointed, on the production of said certified statement, to pay to said clerk or other person the amount which appears to be due him, out of the county treasury.

*Ibid. § 27.* **36. COMPENSATION OF JUDGES AND CLERKS.]** It shall be the duty of the clerk of the county *commissioners' court* in each county, on the receipt of the election returns of any general or special election, to make out his certificate, stating therein the

*Tie Vote - - - Vacancy — Governor.*

compensation to which the judges and clerks of each election may be entitled for their services, and lay the same before the next *commissioners' court* of the county; and the said court shall order the compensation aforesaid to be paid out of the county treasury.

*Ibid.* § 28. **37. Tie Vote.]** If the requisite number of senators or representatives, or county officers, shall not be elected, by reason of any two or more persons having an equal and the highest number of votes for one and the same office, the clerk or clerks whose duty it is to compare the polls, shall give notice to the several persons so having the highest and an equal number of votes, to attend at the office of the proper clerk, at a time to be appointed by the said clerk or clerks, who shall then and there proceed publicly, to decide by lot, which of the persons so having an equal number of votes shall be declared duly elected; and the said clerk or clerks shall make out and deliver to the person thus declared duly elected, a certificate of his election as hereinbefore provided.

*Ibid.* § 29. **38. ABSTRACT FOR SECRETARY OF STATE.]** The clerk of the county *commissioners' court*, immediately after making out abstracts of votes given in his county, shall make a copy of each of said abstracts, and transmit it by mail to the office of the secretary of state; the abstract of votes for governor and lieutenant governor being addressed to the speaker of the house of representatives, and inclosed with the other abstracts to the secretary's office as aforesaid; and it shall be the duty of the secretary of state, at the opening of the succeeding session of the general assembly, to deliver all such abstracts of votes for governor and lieutenant governor, or for either of them, to the speaker of the house of representatives.

*Ibid.* § 30. **39. CANVASS BY STATE OFFICERS.]** The secretary of state, auditor, treasurer and attorney general, or any two of them, in the presence of the governor, shall proceed, within 50 days after the election, and sooner, if all the returns be received, to canvass the votes given for representatives to congress; and the governor shall grant a certificate of election to the person or persons having the highest number of votes, and shall also issue a proclamation, declaring the election of such person or persons. In case there shall be no choice, by reason of any two or more persons having an equal number of votes, the election shall be determined by lot, under the direction of the governor, in the manner prescribed in § 28 of this chapter.

*Ibid.* § 31. **40. SPECIAL MESSENGER.]** If the returns of the election of any county in this state, shall not be received at the office of the secretary of state, within 30 days after the day of election, the said secretary shall forthwith send a messenger to the clerk of the county *commissioners' court* of such county, whose duty it shall be to furnish the said messenger with a copy of such returns; and the said messenger shall be paid out of the state treasury the sum of 10 cents for each mile he shall necessarily travel in going to, and returning from the office of the said clerk.

R. S. § 32, 221. P. 522. S. 470. **41. VACANCIES — MEMBERS OF THE LEGISLATURE.]** When any vacancy shall happen in the office of senator or representative to the general assembly, by death, removal or otherwise, it shall be the duty of the clerk of the county *commissioners' court* of the county, if one county only compose the senatorial or representative district, as soon as he shall have been informed thereof, to notify the governor of such vacancy, and if there be more than one county comprised within the limits of such senatorial or representative district, it shall be the duty of the clerk of the county *commissioners' court* of the senior county in such district, so to notify the governor, and the governor shall issue a writ of election, directed to the sheriff of the county in which such vacancy shall happen, commanding him to notify the several judges of election in his county, to hold a special election to fill such vacancy or vacancies, at a time to be appointed by the governor: *Provided*, that if there is to be no session of the general assembly between the happening of such vacancy and the time of the general election, it shall not be necessary to order a special election to fill such vacancy.

*Ibid.* § 33. **42.]** Elections to fill vacancies in either branch of the general assembly, occurring during the sessions of the legislature, may be held on such notice, not less than five nor more than 20 days, as the governor may direct in the writ of election issued to fill such vacancy.

*Ibid.* § 34. **43. VACANCY — GOVERNOR.]** If any vacancy shall happen in the office of governor by death, resignation, removal from office, or refusal by the governor elect to take the requisite oath of office, it shall be the duty of the secretary of state to notify the

*Vacancies - - - Penalties.*

clerks of the county *commissioners'* courts of the several counties in this state, that at the next succeeding general election of members of the general assembly, or electors of president and vice president, (as the case may be,) an election will be held to fill such vacancy : *Provided however*, that the secretary shall not give such notice, nor shall such special election of governor take place unless the vacancy shall have happened at least 40 days previous to such general election for members of the general assembly, or of electors of president and vice president of the United States, nor unless a regular session of the general assembly shall intervene between the time when such vacancy shall have happened and the succeeding quadrennial election of governor.

*2 Laws 1849, 8. 6 Nov. § 1. P. 531. S. 471.* **44.** VACANCIES — SHERIFF — SURVEYOR — CORONER.] Whenever a vacancy shall happen in the office of sheriff, county surveyor or coroner of any county of this state, by death, resignation, or removal of any incumbent, it shall be the duty of the clerk of the county court of such county immediately to notify the governor of that fact, and it shall be the duty of the governor to issue a writ of election to fill such vacancy, and direct the time of holding the same ; which election shall be proceeded in as in other cases of election.— [Former elections to fill vacancies in these offices confirmed ; *2 Laws 1849, 8.*

*R. S. § 36, 221. P. 523. S. 471.* **45.** VACANCIES — CONGRESSMEN.] When any vacancy shall happen in the office of representative to congress from this state, it shall be the duty of the governor to issue his proclamation, appointing a day to hold a special election to fill such vacancy.

*Laws 1849, 72. 12 Feb. § 5. P. 526. S. 474.* **46.** VACANCIES — SUPREME AND CIRCUIT JUDGES.] In case of any vacancy in the office of judge of the supreme or circuit courts of this state, within one year of the time fixed by this act for an election of such judge, it shall be the duty of the governor to appoint a judge to fill such vacancy, who shall hold his office till the time fixed by this act for the election of judges for such court ; but if any vacancy shall occur more than one year previous to the time fixed by this act for the election of such judge, it shall be the duty of the governor to issue writs of election to the several counties that may be entitled by law to vote for such judge, fixing the time for the holding of said election, and requiring said sheriffs to give 20 days' notice of the time and place of holding said elections ; which elections shall be conducted in the same manner as if the election of such judge had taken place at the regular time fixed by law.

*Ibid. § 7.* **47.** VACANCIES — CIRCUIT CLERK — SUPREME CLERK — STATE'S ATTORNEY — AUDITOR — TREASURER — SECRETARY OF STATE.] In case of a vacancy in the office of clerk of the circuit court, it shall be the duty of the judge of said court to appoint a clerk, who shall hold his office until the next regular election for county officers, or members of the general assembly, whichever may first happen, at which election such vacancy shall be filled ; and in case of a vacancy in the office of clerk in the supreme court in either of the grand divisions, the judges of the supreme court shall appoint a clerk, who shall hold his office until the time fixed by the constitution for the election of such clerk ; and in case of a vacancy in the office of state's attorney, the governor shall appoint a state's attorney to fill such vacancy, who shall hold his office until the time fixed by the constitution for the election of state's attorneys ; and in case of a vacancy in either of the offices of auditor, treasurer or secretary of state, the governor shall fill any such vacancy until the time fixed by the constitution for an election to fill such vacancy.

*R. S. § 37, 221. P. 523. S. 471.* **48.** PENALTIES.] If any judge of the election, or clerk, or any other officer or person in any manner concerned in conducting the election, shall wilfully neglect, improperly delay or refuse to perform any of the duties required by this chapter, after having undertaken to perform such duties, he shall forfeit and pay to the state the sum of \$40.; and if any such judge of the election, clerk, or other officer or person, in anywise concerned in conducting the election, shall knowingly admit any person to vote, not qualified according to law, or shall knowingly receive and count more than one vote from one person, at the same election for one office, or shall be guilty of fraud, corruption or partiality, or manifest misbehavior, in any matter or thing relating to said election, each and every person so offending shall forfeit and pay to the county, the sum of \$100., to be recovered in any court of record in the state, in the name of the state for the use of the county, in an action of debt, with costs of suit, or at the suit of any person who may sue for the same, one half for the use of the person suing, and the other

*Penalties against Judges - - - Attachments.*

half for the use of the county; and every such person, so offending as aforesaid, shall moreover, on conviction, be rendered incapable of holding any office within this state for the term of 10 years thereafter.

*Ibid. § 38. 49. AGAINST JUDGES.]* Nothing in this chapter shall be so construed as to prevent the judges of election from refusing to receive the vote of any person when it shall be proved, to the satisfaction of a majority of them, that in taking the said oath he shall have sworn falsely. And if any judge of election shall order to be received the vote of any person, who, being challenged, shall not take the oath or affirmation prescribed by law, such judge of election, so offending, shall forfeit and pay the sum of \$50., to be recovered by action of debt, in the name of the state, or of any person suing therefor, the one-half of said fine for the use of the county, and the other half for the use of the person suing.—[Consult also § 24.]

§ 39. Judges of election refusing to receive a vote; repealed by act 12 Feb. 1849; Laws 1849, 75 § 21, Purple 520; Seates 478.

*R. S. § 40, 222. P. 523. S. 471. 50. AGAINST CLERKS.]* If the clerk of the county commissioners' court shall neglect or refuse to perform the duties, as pointed out in this chapter, he shall be liable to be indicted, and on conviction, shall be fined in a sum not exceeding \$500., and imprisoned not exceeding 30 days, and may be sued in an action of trespass on the case, for damages, not exceeding \$500., by the person injured by reason of the neglect or refusal of such clerk.

*Ibid. § 41. 51. POLL-BOOK INJURED, REMOVED OR DESTROYED.]* If any person shall mutilate or erase any name or figure, or word, in a poll-book taken or kept at any election, or if any person shall take away such poll-book from the place where it has been deposited for safe keeping, with an intention of destroying the same, or to procure or prevent the election of any person, or if any person shall destroy any poll-book so taken and kept at any election, he or she shall be liable to be indicted, and on conviction, shall be fined \$500., and imprisoned not exceeding 60 days in the county jail.

*R. S. § 42, 222. P. 524. S. 472. 52. CONTESTED ELECTION — NOTICE.]* When any candidate shall desire to contest the validity of any election, or the right of any person, declared duly elected, to hold the office to which such candidate claims the right, such candidate shall give notice of his intention, in writing, to the person whose election he intends to contest, or leave a notice thereof at his usual place of residence, within 30 days after the day of election, expressing the points on which the same will be contested, the name of one of the justices of the peace who will attend at the taking of the depositions, the place where, and the time when, the said depositions will be taken; which time, so fixed upon for the taking of the depositions, shall not exceed 60 days from the day of election.

*Ibid. § 43. 53. TRIAL BY THREE JUSTICES.]* The party whose election is contested, may select another justice of the peace to attend at the trial. Should the party, whose election is contested, refuse or neglect to select a justice, as aforesaid, the justice chosen by the person contesting the election, as aforesaid, shall make such selection for him. The two justices, so selected or chosen, shall make choice of a third justice; and if they cannot agree upon a third justice to act with them, they shall make such selection by lot; and the three justices, thus selected, or either of them, shall have power, and they are hereby authorized and required, to issue subpenas and such other process as may be necessary to secure the attendance at such trial of all persons whose testimony may be required by either party, in the same manner as is provided in other cases of proceedings before justices of the peace.

*Ibid. § 44. 54. SUBPENAS.]* The said justices, or any one of them, shall, in all such cases, have power to issue subpenas for witnesses to any county in this state, directed to the sheriff of such county, who shall make service and return as in other cases. And any witness, duly subpenaed, refusing or neglecting to appear and testify, shall, in addition to the penalties otherwise imposed by law, forfeit and pay a fine of \$50., to be recovered by action of debt, in any court having cognizance thereof, one-half to the county, and one-half to the person suing for the same.

*Ibid. § 45. 55. ATTACHMENTS.]* The said justices, or any one of them, may issue attachments for witnesses so neglecting or refusing to attend, who may be brought before them; and at any time before the day for the decision of the question between the contest-

ing parties, the said justices shall, at the request of either, after giving notice to the other party of five days, if resident in their county, or 10 days, if residing out of their county, proceed to take the testimony of such witnesses, to be used in the case.

*Ibid.* § 46. **56. PENALTY AGAINST JUSTICE.]** If any justice of the peace, selected as aforesaid to attend at the taking of the depositions, shall, without reasonable excuse, fail or refuse to attend at the time and place appointed, after having undertaken to attend, he shall forfeit and pay a fine of \$50., to be recovered by action of debt, in any court having cognizance thereof, one-half to the county, and the other half to the person who will sue for the same.

*Ibid.* § 47. **57. TESTIMONY TAKEN.]** The said justices shall hear and examine all the evidence offered on either side. If the contest be respecting any county office, they shall decide which of the said candidates shall have been duly elected, and certify the same to the clerk of the county *commissioners'* court of the proper county, who shall thereupon make out and deliver to the successful party a certificate of his election. If such contest be respecting a seat in the senate or house of representatives of this state, the said justices shall hear and reduce to writing all the testimony taken in the case, and certify and transmit the same, under seal, together with all other papers and documents pertaining to the case, to the speaker of the senate or house of representatives, as the case may be.

*Ibid.* § 48. **58. POINTS — CLERK — ORDER.]** No testimony shall be heard by the said justices, on the part of the person contesting the election, which does not relate to the points specified in the notice. Such justices shall have power to appoint a clerk, and may adjourn from day to day until their duties shall be completed. They shall have the same power to preserve order, and to punish disorders and contempts, as justices of the peace may exercise, when holding court.

R. S. § 49, 224. P. 525. S. 473. **59. JUDGMENT.]** In all contests for county offices, in which the justices hearing the case are authorized to decide, they shall enter judgment on the docket of the justice last chosen, for all the costs of such contest, against the unsuccessful party, upon which execution may issue as in other cases. Either party may appeal from the decision of such justices to the circuit court as in other cases of appeal from the judgment of a justice of the peace, the decision of which court shall be final.

*Ibid.* § 50. **60. TESTIMONY TAKEN AND TRANSMITTED.]** In all contests other than for county offices, the proceedings for taking testimony hereinbefore provided, may be had in each county in which it is necessary to take testimony, and the like returns shall in each case be made. In those cases in which the justices examining do not decide the contest, they shall not be compelled to certify or transmit the testimony and documents pertaining to the case, until the reasonable costs of the examination and of certifying the same are tendered or paid; and the party who is finally unsuccessful shall be liable for such costs, to the person who shall have paid the same. But if neither party shall require or cause such testimony and documents to be transmitted, then judgment may be entered and execution had as before provided, against the party at whose instance such examination was instituted.

Laws 1849, 72. 12 Feb. § 6. P. 526. S. 474. **61. JUDGE — CONTESTING.]** In case the right of any person claiming to be elected a judge of the supreme or circuit court shall be contested, the contest shall be conducted and the evidence taken in the same manner now provided by law for contesting the election of members of the general assembly, and the evidence when taken, if it relate to the election of a judge of the supreme court, it shall be transmitted to the speaker of the senate; and if it relate to a judge of the circuit court it shall be transmitted to the clerk of the supreme court of the grand division in which a sitting of the supreme court is first directed to be held after such contest shall have commenced.

*Ibid.* § 8. **62. STATE'S ATTORNEY — CLERK — CONTESTING.]** The election of state's attorneys and clerks of the supreme court may be contested in the same manner as is provided for contesting the rights of judges of the circuit courts; and the election of clerks of the circuit courts may be contested in the manner provided for contesting the election of county officers: *Provided*, any person whose election is proposed to be contested shall be released from cost of such contested election by refusing to receive a certificate of the clerk of the county court of his election.

*By General Assembly - - - Ballot-Boxes.*

*R. S. § 51, 224. P. 525. S. 473. 63. ELECTIONS BY THE GENERAL ASSEMBLY.]* In all elections by the general assembly, or by either house thereof, (elections of justices of the supreme court, and judges of inferior courts excepted,) the members shall vote *viva voce*, and their votes shall be entered upon the journals. Elections by joint vote of the two houses shall be made in the hall of the house of representatives, at such time as shall have been previously appointed by joint resolution of the two houses; and at all such joint meetings, the speaker of the house of representatives shall preside. \* \* No person shall be declared duly elected by the general assembly, or either branch thereof, until he shall have received a majority of all the votes given, blank votes included. — [Under the constitution of 1848, no officers are elected by the general assembly, except senators of the United States, and the manner of their election is fixed by act of Congress, 25 July, 1866; 14 Stat. 243.

*Ibid. § 52. 64. BETTING ON ELECTIONS.]* If any person shall, at any time hereafter, bet or wager any money, property or other valuable thing, upon the result of any election which may be held under the constitution or laws of this state, or shall bet or wager money, property or other valuable thing, upon the number of votes which may be given to any one or more persons, at any election held as aforesaid, or upon who will receive the greatest number of votes at any such election; or if any person shall agree to pay to any other person, any money, property or other valuable thing, in the event that any election as aforesaid shall result in one way, or in the event that any one or more persons shall or shall not be elected, or shall receive a greater number of votes than others, such person shall be liable to indictment, and, upon conviction thereof, shall be fined, in any sum not exceeding \$1,000.

*Ibid. § 53. 65.]* It shall not be necessary to the commission of the offense specified in the foregoing section, that the money, property, or valuable thing, bet or wagered, shall be exhibited or staked at the time of making such bet or wager, or at any other time.

*Laws 1849, 71. 12 Feb. § 3. P. 527. S. 474. 66. ELECTION OF SUPREME JUDGES.]* An election shall be held in this state on the first Monday in June, 1852, and every 9th year thereafter, for one judge of the supreme court from the first grand division; on the first Monday of June, 1855, and every 9th year thereafter, for one judge of the supreme court from the third grand division, and on the first Monday of June, 1858, and every 9th year thereafter, for one judge of the supreme court from the second grand division; and the present judges of the supreme court shall respectively hold their offices till the time fixed by this section for an election of a judge from the division for which such judge may have been elected.

*Ibid. § 4. 67. CIRCUIT JUDGES.]* On the first Monday of June, 1855, and every 6th year thereafter, an election shall be held in each judicial circuit for the election of a judge for such circuit: *Provided*, that whenever an additional judicial circuit shall be created, the first election of a judge for such circuit shall be held at such time as the law creating such circuit shall direct, but whose term of office shall expire at the time fixed for the next regular election of judges for the judicial circuits of this state.

*Ibid. § 9. 68. CANVASSING RETURNS.]* Returns of the election of judges of the supreme court and circuit courts, secretary of state, auditor, treasurer, state's attorneys and clerks of the supreme court shall be made and canvassed as is now provided by law for representatives in congress. Returns for clerks of the circuit court shall be made and canvassed as is now provided for other county officers.

*Ibid. § 11. 69. BLANK POLL BOOKS.]* The county court, or the board doing county business in each of the several counties in this state, at their first meeting in each and every year, shall cause a suitable number of blank forms of poll books and election returns to be made out, (headed and certified as the nature of the case may be,) for each board of elections, in each precinct, township or place; which they shall cause to be delivered into the hands of the sheriffs respectively of said counties, whose duty it shall be to deliver them to the judges, or boards of election, at least 10 days previous to the election then to be held.

*Ibid. § 14. 70. BALLOT-BOXES PROVIDED.]* The county court or board doing business shall provide a sufficient number of ballot-boxes at the expense of the county, for the several boards or judges of election, to be kept by one of the judges or board, and to be delivered over to the successors of such judges or board, each of which said ballot-boxes shall be furnished with a sufficient lock and key, and before any ballot shall have been deposited therein the same shall be publicly opened and exhibited, to the end that

the judges and clerks assisting at every election may see that no ballot is in said box, after which, the same shall be locked and the key delivered over to one of the judges or board of election, and shall not be opened during the said election, except in the manner and for the purpose herein provided. An opening shall be made at the top or lid of each of such ballot-boxes, not larger than shall be sufficient to admit of a single closed ballot to be inserted therein at one time, through which each ballot received shall be inserted.

*Ibid. § 16.* **71. MANNER OF KEEPING POLL BOOKS.]** Each clerk of the election shall keep a poll list, which shall contain one column, headed "names of voters." The name of each elector voting shall be entered by each clerk in regular succession under the said heading in his poll list. At each *adjournment* of the polls, and upon the final closing of the same, the clerks shall, in the presence of the judges or board of election, compare their respective poll lists, and correct all mistakes that may be discovered according to the decisions of the judges or board of election, until such poll lists shall be made to correspond in all respects; the ballot-box shall then be opened and the said poll lists placed therein; the box shall then again be locked, and the seal of one or more of the judges shall be so placed thereon as entirely to cover the opening in the lid or top of said box; the key of said box shall then be delivered to one of the judges or board of election, and the box to another; the judge having the key shall keep the same in his own possession, and deliver it again to the board at the next opening of the poll; the judge having the box shall carefully keep it, without opening it or permitting it to be opened, or the seal thereof to be broken or removed, and shall publicly deliver it in that condition to the board at the next opening of the polls.—[Adjournments prohibited by § 19.]

Repealed: See ELECTIONS § 239.

*Laws 1861, 267. 21 Feb. § 1. Laws 1865, 58. 15 Feb. § 15.* **72. THIRTY DAYS' RESIDENCE.]** To constitute residence, under the election laws of this state, a person shall have resided in the election precinct or district for the term of 30 days; and no person shall be entitled to vote at any election under the laws of this state, excepting under charters for cities or incorporated towns, unless he shall have actually, and in good faith, resided in the election precinct or district in which he offers his vote, for 30 days immediately preceding such election, any law of this state to the contrary notwithstanding.

*Ibid. § 2.* **73.]** Any person violating the provisions of this act shall be subject to all the fines, penalties and punishments that are now provided by law for illegal voting.

*Laws 1861, 267. 22 Feb. § 1. Laws 1865, 58. 15 Feb. § 15.* **74. RESIDENCE — CHALLENGE — OATH — WITNESSES.]** To constitute residence, under the constitution and election laws of this state, a permanent abode is necessary; and [at] all elections, general or special, held in any town, city, district or ward, every person offering to vote, who is not personally known to the judges and inspectors of election to have such permanent abode, and to have resided in such election district for the space of 30 days immediately preceding such election, shall, if his vote be challenged, take the oath now required by law, and, in addition thereto, swear or affirm to his place of residence, specifying the particular place and house in which he resides, and stating how long he has there resided, and his business or employment; and if he has not resided in such house for 30 days immediately preceding such election, he shall state where and in what house he has resided for the last 30 days; and, in addition thereto, such voter, so challenged, shall be required to produce two witnesses, both of whom are personally known to said judges of said election, and resident in the precinct, district or ward, or shall be proved by some legal voter or voters of the precinct or district in which such vote is offered, to be voted [voters] therein, who shall be known to said judges, and each of whom shall take the following oath, to be administered by one of the judges of said election:

I do solemnly swear (or affirm, as the case may be,) that I am a resident of this election district, and entitled to vote at this election, and that I have been a resident of this election district for one year last past, and that I am well acquainted with the voter whose vote is now offered; that he is an actual and bona fide resident of this election district, and that he has resided in this state for one year last past.

*Laws 1861, 268. 22 Feb. § 2.* **75. PENALTIES AGAINST JUDGES.]** If any judge of any election shall permit any voter to vote, whose vote is so challenged, without the proof required in § 1 of this act, or shall knowingly and wilfully permit any person to testify as a witness, contrary to the provisions of this act, he shall be deemed guilty of [a] high misdemeanor, and, on conviction thereof, shall be fined in the sum of \$1,000., and imprisoned in the county jail for six months.

*Perjury - - - Register of Electors.*

*Ibid.* § 3. **76. PERJURY.]** If any witness or voter, whose vote is so challenged and sworn under the provisions of this act, shall knowingly, wilfully and corruptly swear falsely, he shall be deemed guilty of perjury, and, on conviction thereof, imprisoned in the penitentiary for any time not less than three nor more than 21 years.

*Ibid.* § 8. **77. ALL ELECTIONS INCLUDED.]** The provisions of this act shall apply to all general and special elections hereafter held in this state, whether for general, town, municipal or other officers; and no person shall be considered, under any circumstances, as having a residence in any ward or election district or precinct, unless he shall have had a permanent abode therein for at least 30 days immediately preceding such election.

*Ibid.* § 9. **78. LIQUOR.]** No liquor or other intoxicating drinks shall be sold or given away, at retail, nor shall any bar-room or place where liquor or intoxicating drinks are sold at retail be open upon such election day; and it shall be the duty of the sheriff, constables, public officers and magistrates to see that the provisions of this section are enforced; and any violation of its provisions shall be prosecuted and punished in the same manner, and to the same extent, as the keeping of tippling houses open upon Sunday, or the first day of the week, is now punished by law.

*Laws 1865, 54. 15 Feb. § 1. 79. BOARD OF REGISTRY — FIRST MEETING.]* The persons authorized by law, or appointed pursuant to any town or city ordinance, to act as judges or inspectors of elections in any town, city, or ward, or other election district or precinct, in this state, (except the moderator of the town meeting, in towns adopting township organization,) shall constitute a Board of registry for their respective towns, cities, wards, districts or precincts, and shall meet on Tuesday, three weeks preceding any state, county, city, or town election, (except town meetings in towns adopting the township organization law,) at nine o'clock A. M., and proceed to make a list as hereinafter prescribed, of all persons qualified and entitled to vote at the ensuing election, in the election district of which they are judges or inspectors; which list, when completed, shall constitute and be known as the Register of Electors of said election district; and said board may continue their session, for the purpose of making said list, two days, if necessary: *Provided*, that at the last election in said district, prior to said meeting, the number of votes cast in said district exceeded 200.

*Ibid.* § 2. **80. REGISTER OF ELECTORS.]** Said registers shall each contain a list of the persons so qualified and entitled to vote in said election district, alphabetically arranged, according to their respective surnames, so as to show, in one column, the name at full length, and in another column, in cities, the residence, by the number of the dwelling if there be a number, and the name of the street or other location of the dwelling place of each person. It shall be the duty of said board to enter in said lists the names of all persons, residing in their election district, whose name appears on the poll list kept in said district at the last preceding election; in cities the number of the dwelling and name of the street or other location, if the same shall be known to, or can be ascertained by such board; and for this purpose, said board are authorized to take from the office in which they are filed, the poll lists made and filed by the judges or inspectors of such district, at the election held next prior to the making of such register. In making said list, the board shall enter thereon, in addition to the names on the poll list, the names of all other persons who are well known to them to be electors in said district; and the names of all persons on the poll list who have died or removed from the district shall be omitted from said register.

**FOUR COPIES MADE.]** The said board shall complete, as far as practicable, the said register on the day of their meeting, aforesaid, and shall make four copies thereof, and certify the register and each of the copies to be a true list of the voters in their district, so far as the same are known to them. Within two days thereafter, the said original list, together with the list taken from the office, as aforesaid, shall be filed by said board in the office of the town clerk of the town in which said election district may be; but in counties not adopting township organization said list shall be filed with the judges or inspectors of election of the proper district, or if such election district is in a city, then it shall be filed in the office of the city clerk of said city; and one copy of said list shall be kept by each of said judges or inspectors, and carefully preserved by him for their use on the day or days hereinafter mentioned; for the revision and correction of the same.

*Register of Electors - - - Completed Lists.*

**ONE COPY POSTED OR PUBLISHED.]** One copy of said list shall, immediately after its completion be posted in some conspicuous place where the last preceding election in said district was held, and be accessible to any elector who may desire to examine the same or make copies thereof. Any person who shall take down, tear down or deface any list, so posted, shall be deemed guilty of misdemeanor, and shall be punished by a fine of \$50., or by imprisonment in the county jail, for the term of 60 days, or by both fine and imprisonment. The board may, in their discretion, cause printed copies of said list to be posted up in such places as they may direct, and may cause the same to be published in some newspaper in the county in which such district is situated, at an expense not exceeding one cent for each name on said list.

*Ibid. § 3. §1. IN NEW DISTRICTS.]* In case a new election district shall be formed by the organization of a new town, or by the division of any town or ward, or the incorporation of a city or town, the judges or inspectors of the election in the new district thus formed, may make their registry of electors on the day prescribed by this act, in such manner as a majority of them may direct, and for that purpose may make a list, or cause to be made, a certified copy of the poll list or lists of the districts in which such new district is situated, or they may dispense with such list or lists, and proceed to make a register of electors from the best means at their command. Said lists shall only embrace the names of such persons as are known to them to be electors in their district, and shall be posted up and copies thereof made, as prescribed in the preceding section, and shall be corrected in the same manner that other lists are corrected.

*Ibid. § 4. §2. SECOND MEETING OF THE BOARD.]* The said board shall again meet on Tuesday of the week preceding the said elections, in their respective election districts, at the place designated for holding the polls of the election, for the purpose of revising, correcting, and completing said lists, and for this purpose, in cities, they shall meet at 8 o'clock in the morning, and remain in session until 9 o'clock P. M. of that day, and the day following; and in other districts they shall meet at 9 o'clock in the morning and remain in session until 4 o'clock P. M. of that day.

*Ibid. § 5. §3. CORRECTIONS AND ADDITIONS.]* The proceedings of said board shall be open, and all persons residing and entitled to vote in said district, shall be entitled to be heard by said board in relation to corrections or additions to said register. One of the lists so kept by the judges or inspectors, as aforesaid, shall be used by them, on the day or days of making corrections or additions, for the purpose of completing the registry for such district.

*Ibid. § 6. §4. PROOF TO BE MADE.]* It shall be the duty of said board, at their meeting for revising and correcting said lists, to erase therefrom the name of any person inserted therein, who shall be proved by the oath of two legal voters of said district, to the satisfaction of said board, to be non-resident of said district, or otherwise not entitled to vote, in said district, at the election then next to be held. Any elector residing in said district, and entitled to vote therein, may appear before said board and require his name to be recorded on said alphabetical list. Any person so requiring his name to be so entered on said lists, shall make the statement as to the street and number thereof, and where he resides, required by the provisions of this act of persons offering their votes at elections, and shall be subject to the same penalties for refusing to give such information, or for falsely giving the same, and shall also be subject to challenge, either by the judges or inspectors, or either of them, or by any other elector whose name appears on said alphabetical list; and the same oaths may be administered by the judges or inspectors as now provided in case of persons offering to vote at an election, and in case no challenge is made of any person requiring his name to be entered on said alphabetical list, or in case of challenge, if such person shall make oath that would entitle him to vote in case of challenge at an election, then the name of any such person shall be added to the alphabetical poll list of the last preceding year.

*Ibid. § 7. §5. COMPLETED LISTS.]* After said lists shall have been fully completed, the said board shall, within three days thereafter, cause four copies of the same to be made, each of which shall be certified by them to be a correct list of the voters of their district; one of which shall be filed in the office of the town clerk of towns, and in the office of city clerks in cities; and one of which copies shall be delivered to each of said judges or inspectors. It shall be the duty of the said judges or inspectors so receiving such lists, carefully to preserve the said lists for their use on election day, and to designate two of

*Duty of Clerks - - - Compensation.*

their number, at the opening of the polls, to check the name of every voter voting in such district whose name is on the register.

**AFFIDAVIT OF NON-REGISTERED VOTER.]** No vote shall be received at any state, county, town or city election in this state, except at town meetings in towns, adopting the township organization law, if the name of the person offering to vote be not on the said register, made on the Tuesday or Wednesday preceding the election, unless the person offering to vote shall furnish to the judges of the election his affidavit, in writing, stating therein that he is an inhabitant of said district, and entitled to vote therein at such election, and prove by the oath of a householder and registered voter of the district in which he offers his vote, that he knows such person to be an inhabitant of the district, and if, in any city, giving the residence of such person within said district. The oath may be administered by one of the judges or inspectors of the election, at the poll where the vote shall be offered, or by any other person authorized to administer oaths, but no person shall be authorized to receive compensation for administering the oath. Said oath shall be preserved and filed in the office of the town or city clerk, or in case there be no clerk, then said oath shall be filed with and preserved by the judges or inspectors of the proper district. Any person may [be] challenged, and the same oaths shall be put as now are or hereafter may be prescribed by law.

*Ibid.* § 8. **86. DUTY OF CLERKS AT THE POLL.]** The clerks at each poll, in addition to the duties now prescribed by law, shall enter on the poll list, kept by them in columns prepared for that purpose, opposite the name of each person voting, the same statement or minute as hereinbefore required of the board in making the registry; but such entry is not to be made by them if the registry contains correctly the name and residence of such voter; and in all cases said clerk shall enter in a column opposite the name of each person not registered, the words "not registered." In cities, every elector, at the time of offering his vote, shall truly state the street in which he resides, and if the house, lodging or tenement in which he resides, is numbered, the number thereof. And the clerks of the polls, in case the name of such elector is not registered, shall truly enter in the appropriate column of the poll list, opposite the name of the elector, the street in which the elector resides, and the number, in case the house, lodging or tenement is numbered; and if the same is not numbered, then the clerk shall enter "not numbered" in the column of the poll list for entering the number. In case of refusal to make the statement as aforesaid, the vote of such an elector shall not be received. Any person who shall wilfully make any false statement in relation thereto, shall be deemed guilty of misdemeanor, and shall, upon conviction, be punished with a fine of \$50., or by imprisonment in the county jail in the county for a period of 10 days, or by both such fine and imprisonment.

*Ibid.* § 9. **87. LISTS AND REGISTER AFTER THE CANVASS.]** After the canvass of the votes, one of said poll lists and said register so kept and checked as aforesaid, shall be attached together, and shall, on the following day, be filed in the town or city clerk's office (as the case may be,) in which said district may be, or in case there be no such clerk, then such poll lists and register shall be filed with and preserved by the judges or inspectors, to be used by the board of registry in making the list of voters at the next election; the other of said poll lists and registers, so kept and checked, (except in town and city elections) shall be returned to the office of the county clerk of the county in which said district may be, at the same time the returns of the election are made.

*Ibid.* § 10. **88. CLERKS.]** The said board may, if necessary, on the day or days of the making and of the corrections of such lists, appoint a clerk to assist them in the discharge of their duties required by this act; and the same oath shall be taken by such clerk as is required by law of clerks of the polls or of elections.

*Ibid.* § 11. **89.]** The registers shall at all times be open to public inspection, at the office of the authorities in which they shall be deposited, without charge.

*Ibid.* § 12. **90. COMPENSATION.]** The members of the board of registration and their clerks shall each receive the same compensation as is now allowed by law for judges or inspectors of elections, for each day actually employed in the making and completing of the registry, to be paid to them at the time and in the manner in which they are paid their other fees.

*Ibid.* § 13. **91.]** The said board shall have and exercise the same power in preserving order at their meetings, under this act, as are given to judges or inspectors of elections

*Double Registration - - - Criminal Provisions Extended.*

for preserving order on election days ; and vacancies in said board shall be filled in the same manner that vacancies are now filled at elections.

*Ibid.* § 14. **92.** DOUBLE REGISTRATION, ETC.] Any person who shall cause his name to be registered in more than one election district, or who shall cause his name to be registered, knowing that he is not a qualified voter in the district where said registry is made, or who shall falsely personate any registered voter, and any person causing, aiding or abetting any person, in any manner, in either of said acts, shall be punished, for each and every offense, by imprisonment in the state prison for not less than one year. All intentional false swearing before said board of registration shall be deemed wilful and corrupt perjury, and on conviction, punished as such. If any member or officer of said board shall wilfully violate any of the provisions of this act, or be guilty of any fraud in the execution of the duties of his office, he shall be punished, for each and every offense, by imprisonment in the state prison for not less than one year.

*Ibid.* § 18. **93.** BLANKS.] The necessary blanks for making the registers required by law, shall be prepared by the secretary of state, and transmitted to the persons entitled to receive them, in the same manner that blank returns of elections are now transmitted.

*Ibid.* § 19. **94.**] Nothing contained in this act shall be construed in any manner to affect the provisions of any act that has been or may be passed at the present session of the general assembly, to enable the qualified electors of this state, absent therefrom in the military service of the United States, in the army or navy thereof, to vote.—[Act of 16 Feb. 1865; to enable the electors absent in the army or navy to vote; Laws 1865, 59.

*Laws* 1867, 104. 28 Feb. [29 Apr.] § 1. **95. ELECTION DISTRICTS.**] The board of supervisors, in counties adopting township organization, at their regular annual session, may, at their discretion, when the interest and convenience of the people require it, divide any township or election district into two or more election districts, or places of holding elections, defining the same by numbers, and by definite and distinct boundaries, and determine the places at which the election shall be held in such district.—[See also Ch. 103d Art. 18 § 1.

*Ibid.* § 2. **96. JUDGES OF ELECTION ELECTED.**] The board of supervisors shall provide for or select the judges of election for the first election to be held after any such division shall have been made ; and at the next ensuing town meeting, held in any town after such division, and at every subsequent annual town meeting, the electors of such town shall be entitled to vote, by ballot, on the same ticket with the other town officers, for two electors, residing in each election district into which said town shall be divided, to be judges of election for such district ; and the two persons in each district receiving the greatest number of votes shall be two of the judges of election for such district at all elections to be held therein the ensuing year. The presiding officers of such town meeting shall, immediately after the votes of such town meeting shall be canvassed, appoint, by writing, subscribed by a majority of such presiding officers, another judge of elections for each election district in said town, to be associated with said two judges, so elected, and who shall, thereupon, be one of the judges of election of such district. Such judge shall be selected from the two persons in such election district who shall have the highest number of votes next to the judges so elected ; and no ballot for judges shall be counted, upon which more than two electors for judges for each election district shall be contained.

*Ibid.* § 3. **97.**] The judges of election, selected by the board of supervisors, shall constitute the first board of registry for the registration of voters for the election first to be held after the division made under this act ; but the judges of elections elected annually under the provisions of § 2 hereof, shall thereafter constitute such Board of Registry.

*Laws* 1869, 172. 10 Mar. § 1. **98. CRIMINAL PROVISIONS EXTENDED.** All the provisions of \* \* §§ 32, 33, 34 and 35 of Chap. 30 Div. 11,] and all other laws now in force in this state punishing frauds in elections, \* are hereby declared applicable to all elections hereafter to be held in any county, city, town, township or village, under any general or special laws of this state, upon the question whether any such county, city, town, township or village, or any officer or officers thereof, or any other person for or in their name, or for or on behalf of such county, city, town, township or village, or the inhabit

*After One Rejection.*

ants of any of them, should subscribe for or to any stock in any incorporated company, or make any donation or gift in aid of such company, or for the removal of any county seat.

*Ibid.* § 2. **99.** AFTER ONE REJECTION.] No officer or officers of any county, city, town, township or village, shall be required to submit the question of subscribing to or taking stock in any incorporation, or of making any donation or gift to or in aid of any incorporation, after such question of subscribing or taking stock or making such donation, has been once rejected by the legal voters of such county, city, town, township or village; but after any such proposition has been once rejected by the people at an election held for that purpose, the proper authorities of any county, city, town, township or village, may again submit such proposition to the electors, at their discretion, any thing in any general or special laws now in force, or that may hereafter be enacted to the contrary notwithstanding.

## NOTE.

The preceding pages contain the Election Law as it was immediately prior to the adoption of the Constitution of 1870, and in form precisely as it appears in the first Volume of the STATUTES. The sections which are repealed or superseded by later legislation, are invariably marked in the margin. Those sections are retained for two reasons. *First.* Because upon them the decisions of the supreme court have been made, and without them those decisions could be of but little assistance in construing the new law. *Second.* Because it is often desirable to compare the new law with the old, in order to know exactly what has been changed and how far the change extends.

The following pages present the Election Law of 1872, in form precisely as it appears in the second Volume of the STATUTES. The repealing clause in § 239 is fully and carefully annotated. The references there made to Volume 1, can all be used by turning to the pages which immediately precede this note.

## CHAPTER 37.

### ELECTIONS.

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CONSOLIDATED ACT OF 1872.

**§ 101. Electors of President.**

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**§ 119. Clerks of the Circuit Court.**

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## Senatorial Districts.

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An act to apportion the state of Illinois into senatorial districts. Approved 1 March 1872. In force 1 July 1872

**100. APPORTIONMENT OF 1872.]** § 1. Until the taking and return of the next federal census, and the apportionment thereunder, as provided in the constitution, this state shall be divided into senatorial districts, each of which shall be entitled to one senator and three representatives, as follows, to-wit:

1. The 1st, 2d, 10th and 11th wards of the city of Chicago, in the county of Cook, shall constitute the first district.
2. The 3d, 4th, and 5th wards of the city of Chicago, in the county of Cook, and the townships of Hyde Park and Lake, in said county, shall constitute the second district.
3. The 6th, 7th and 8th wards of the city of Chicago, in the county of Cook, shall constitute the third district.
4. The 9th, 12th and 13th wards of the city of Chicago, in the county of Cook, shall constitute the fourth district.
5. The 14th, 15th and 18th wards of the city of Chicago, in the county of Cook, shall constitute the fifth district.
6. The 16th, 17th, 19th and 20th wards of the city of Chicago, in the county of Cook, shall constitute the sixth district.
7. The townships of New Trier, Northfield, Wheeling, Palatine, Barrington, Hanover, Schaumburg, Elk Grove, Maine, Niles, Evanston, Lake View, Jefferson, Leyden, Proviso, Riverside, Cicero, Lyons, Lemont, Palos, Worth, Calumet, Thornton, Bremen, Orland, Rich, and Bloom, in the county of Cook, shall constitute the seventh district.
8. The counties of McHenry and Lake shall constitute the eighth district.
9. The counties of Winnebago and Boone shall constitute the ninth district.
10. The counties of Jo Daviess and Stephenson shall constitute the tenth district.
11. The counties of Carroll and Whiteside shall constitute the eleventh district.
12. The counties of Ogle and Lee shall constitute the twelfth district.
13. The counties of De Kalb, Kendall and Grundy, shall constitute the thirteenth district.
14. The counties of Kane and Du Page shall constitute the fourteenth district.
15. The county of Will shall constitute the fifteenth district.
16. The counties of Kankakee and Iroquois shall constitute the sixteenth district.
17. The county of La Salle shall constitute the seventeenth district.
18. The counties of Livingston and Ford shall constitute the eighteenth district.
19. The counties of Bureau and Stark shall constitute the nineteenth district.
20. The counties of Putnam, Marshall and Woodford shall constitute the twentieth district.

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21. The counties of Rock Island and Henry shall constitute the twenty-first district.
22. The counties of Mercer and Knox shall constitute the twenty-second district.
23. The counties of Warren and McDonough shall constitute the twenty-third district.
24. The counties of Henderson and Hancock shall constitute the twenty-fourth district.
25. The counties of Fulton and Schuyler shall constitute the twenty-fifth district.
26. The county of Peoria shall constitute the twenty-sixth district.
27. The counties of Tazewell and Logan shall constitute the twenty-seventh district.
28. The county of McLean shall constitute the twenty-eighth district.
29. The counties of De Witt and Macon shall constitute the twenty-ninth district.
30. The counties of Piatt and Champaign shall constitute the thirtieth district.
31. The counties of Vermilion and Edgar shall constitute the thirty-first district.
32. The counties of Douglas, Coles and Moultrie shall constitute the thirty-second district.
33. The counties of Shelby, Cumberland and Effingham shall constitute the thirty-third district.
34. The counties of Christian and Montgomery shall constitute the thirty-fourth district.
35. The county of Sangamon shall constitute the thirty-fifth district.
36. The counties of Mason, Brown, Cass and Menard shall constitute the thirty-sixth district.
37. The county of Adams shall constitute the thirty-seventh district.
38. The counties of Scott, Pike and Calhoun shall constitute the thirty-eighth district.
39. The counties of Greene and Morgan shall constitute the thirty-ninth district.
40. The counties of Macoupin and Jersey shall constitute the fortieth district.
41. The county of Madison shall constitute the forty-first district.
42. The counties of Bond, Clinton and Washington shall constitute the forty-second district.
43. The counties of Fayette and Marion shall constitute the forty-third district.
44. The counties of Clay, Wayne, Richland, Edwards and Wabash shall constitute the forty-fourth district.
45. The counties of Clark, Crawford, Lawrence and Jasper shall constitute the forty-fifth district.
46. The counties of Jefferson, Hamilton and White shall constitute the forty-sixth district.
47. The counties of Franklin, Williamson, Saline and Gallatin shall constitute the forty-seventh district.
48. The counties of Monroe, Randolph and Perry shall constitute the forty-eighth district.
49. The county of St. Clair shall constitute the forty-ninth district.
50. The counties of Jackson, Union and Alexander shall constitute the fiftieth district.
51. The counties of Pulaski, Massac, Johnson, Pope and Hardin shall constitute the fifty-first district.

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*An act in regard to elections, and to provide for filling vacancies in elective offices. Approved 3 April 1872. In force 1 July 1872.*

## ELECTORS OF PRESIDENT AND VICE-PRESIDENT OF UNITED STATES.

**101. ELECTORS OF PRESIDENT.]** § 1. There shall be elected, by general ticket, on the Tuesday next after the first Monday in November preceding the expiration of the term of office of each president of the United States, as many electors of president and vice-president of the United States as this state may be entitled to elect — which election shall be conducted and returns thereof made as hereinafter provided: *Provided*, that if congress should hereafter fix a different day for such election, then the election for electors shall be held on such day as shall be named by act of congress.

**102. ABSTRACT OF VOTES.]** § 2. The county clerks of the several counties shall

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within eight days next after holding an election for electors of president and vice-president of the United States, as is provided for in this act, make three copies of the abstract of votes for electors, and transmit by mail one of said copies to the governor, another to the office of the secretary of state, and retain the third in his office, to be sent for by the governor in case both the others should be mislaid.

**103. CANVASS MADE: TIE VOTE.]** Within 20 days after the holding of such election, and sooner if all the returns are received by either the governor or by the secretary of state, the secretary of state, auditor of public accounts and treasurer, or any two of them, shall, in the presence of the governor, proceed to open and canvass said election returns, and to declare the persons having the highest number of votes elected; but should any two or more persons be returned with an equal and the highest vote, the said secretary of state shall cause a notice of the same to be published, which notice shall name some day and place, not less than five days from the time of the publication of such notice, upon which the said secretary, auditor and treasurer will decide, by lot, which of said persons so equal and highest is elected. And upon the day and at the place so appointed in said notice, the said secretary, auditor and treasurer, or any two of them, shall, in the presence of the governor, decide, by lot, which of the persons so equal and highest shall be elected.

**104. CERTIFICATE OF ELECTION.]** § 3. The governor shall cause the result of the said election to be published, and shall transmit by mail, to the persons elected, certificates of their election.

**105. MEETING OF ELECTORS.]** § 4. The electors chosen, as aforesaid, shall meet at the seat of government of this state, at the time appointed by the laws of the United States, and give their votes in, in the manner therein provided, and perform such duties as are or may be required by law. Each elector shall receive for every 20 miles necessary travel in going to the seat of government to give his vote, and returning to his residence, to be computed by the most usual route, the sum of \$3., to be paid on the warrant of the auditor, out of any money in the treasury not otherwise appropriated.

**106. ELECTOR NOT ATTENDING.]** § 5. In case any person declared duly elected an elector of president and vice-president of the United States shall fail to attend at the state house, at the seat of government of this state, at or before the hour of 12 o'clock, at noon, of the day on which his vote is required to be given, it shall be the duty of the elector or electors of president and vice-president, attending at that time and place, to appoint a person or persons to fill such vacancy: *Provided*, that should the person or persons chosen by the people, as aforesaid, arrive at the place aforesaid before the votes for president and vice-president are actually given, the person or persons appointed to fill such vacancy shall not act as elector of president and vice-president.

## TIME OF HOLDING ELECTIONS FOR CERTAIN OFFICERS.

**107. REPRESENTATIVES IN CONGRESS.]** § 6. Representatives in congress shall be elected on Tuesday next after the first Monday in November, A. D. 1872, and every two years thereafter; but if congress shall fix a different day, then such election shall be held on the day so fixed by congress.

**108. GOVERNOR: LIEUTENANT GOVERNOR: SECRETARY: AUDITOR: ATTORNEY GENERAL.]** § 7. The governor, lieutenant governor, secretary of state, auditor of public accounts and attorney general, shall be elected on Tuesday next after the first Monday of November, A. D. 1872, and every four years thereafter.

**109. SUPERINTENDENT OF PUBLIC INSTRUCTION.]** § 8. The superintendent of public instruction shall be elected on Tuesday next after the first Monday of November, A. D. 1874, and every four years thereafter.

**110. STATE TREASURER.]** § 9. The state treasurer shall be elected on Tuesday next after the first Monday of November, A. D. 1872, and every two years thereafter.

**111. SUPREME JUDGES.]** § 10. The judges of the supreme court shall hereafter be elected as follows, to-wit: In the first, second, third, sixth and seventh districts on the first Monday of June, A. D. 1879, and every nine years thereafter. In the fourth district, on the first Monday of June, A. D. 1876, and every nine years thereafter. In the fifth district, on the first Monday of June, A. D. 1873, and every nine years thereafter.

**112. SUPREME CLERKS.]** § 11. A clerk of the supreme court in each grand division shall be elected on Tuesday next after the first Monday of November, A. D. 1872, and every six years thereafter.

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**113. CIRCUIT JUDGES.]** § 12. The judges of the circuit court shall be elected on the first Monday of June, A. D. 1873, and every six years thereafter.

**114. JUDGES: COOK COUNTY SUPERIOR COURT.]** § 13. The judges of the superior court of Cook county shall be elected as follows: One on Tuesday next after the first Monday of November, A. D. 1874, and every six years thereafter; one on Tuesday next after the first Monday of November, A. D. 1876, and every six years thereafter; and one on Tuesday next after the first Monday of November, A. D. 1878, and every six years thereafter.

**115. STATE SENATORS.]** § 14. State senators shall be elected as follows, to wit: Those in districts bearing even numbers shall be elected on Tuesday next after the first Monday of November, A. D. 1872, and every four years thereafter. Those in districts bearing odd numbers shall be elected on Tuesday next after the first Monday of November, A. D. 1872, for the term of two years. And after that they shall be elected on Tuesday next after the first Monday of November, A. D. 1874, and every four years thereafter.

**116. REPRESENTATIVES.]** § 15. Members of the house of representatives shall be elected on Tuesday next after the first Monday of November, A. D. 1872, and every two years thereafter.

**117. COUNTY JUDGES: COUNTY CLERKS.]** § 16. The county judges and county clerks shall be elected on Tuesday next after the first Monday of November, A. D. 1873, and every four years thereafter.

**118. SHERIFFS: CORONERS.]** § 17. The sheriffs and coroners shall be elected on Tuesday next after the first Monday of November, A. D. 1872, and every two years thereafter.

**119. CIRCUIT CLERKS.]** § 18. The clerks of the circuit court shall be elected on Tuesday next after the first Monday of November, A. D. 1872, and every four years thereafter.

**120. CLERK: COOK COUNTY SUPERIOR COURT.]** § 19. The clerk of the superior court of Cook county shall be elected on Tuesday next after the first Monday of November, A. D. 1875, and every four years thereafter.

**121. CLERK: COOK COUNTY CRIMINAL COURT.]** § 20. The clerk of the criminal court of Cook county shall be elected on Tuesday next after the first Monday of November, A. D. 1873, and every four years thereafter.

**122. COUNTY TREASURERS.]** § 21. The county treasurers shall be elected on Tuesday next after the first Monday of November, A. D. 1873, and every two years thereafter.

**123. COUNTY SURVEYORS.]** § 22. The county surveyors shall be elected on Tuesday next after the first Monday of November, A. D. 1875, and every four years thereafter.

**124. COUNTY SUPERINTENDENTS.]** § 23. The county superintendents of schools shall be elected on Tuesday next after the first Monday of November, A. D. 1873, and every four years thereafter.

**125. STATE'S ATTORNEY.]** § 24. A state's attorney shall be elected in each county on Tuesday next after the first Monday of November, A. D. 1872, and every four years thereafter.

**126. BOARD OF EQUALIZATION.]** § 25. There shall be elected in each congressional district, on Tuesday next after the first Monday of November, A. D. 1872, and every four years thereafter, one elector, to serve as a member of the state board of equalization.

**127. COUNTY RECORDERS.]** § 26. In counties having a population of 60,000 or more, there shall be elected a recorder of deeds, on Tuesday next after the first Monday of November, A. D. 1872, and every four years thereafter.

**128. COUNTY ASSESSORS.]** § 27. In counties not under township organization, there shall be elected on Tuesday next after the first Monday of November, A. D. 1873, and every two years thereafter, a county assessor, who shall hold his office for two years, and until his successor is elected and qualified.

**129. COUNTY BOARDS.]** § 28. In counties not under township organization there shall be elected on Tuesday next after the first Monday of November, A. D. 1873, three officers, who shall be styled "The Board of County Commissioners," one of whom shall hold his office for one year, one for two years, and one for three years, to be determined by lot; and every year thereafter, one such officer shall be elected in each of said counties, for the term of three years.

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#### ELECTION PRECINCTS.

**130. OLD PRECINCTS UNCHANGED.]** § 29. The election precincts established in counties not under township organization, before the taking effect of this act, shall remain until changed by the county board.

**131. MAY BE CHANGED.]** § 30. The county board of such counties may, from time to time, change the boundaries of election precincts, and may erect and establish one or more new election precincts, and may designate and change the places of holding elections. All general and special elections shall be held at the places so designated.

**132. UNDER TOWNSHIP ORGANIZATION.]** § 31. In counties under township organization, each town shall constitute an election precinct, but the county board may divide any town into as many election districts as the convenience of the people may require, defining the same by distinct boundaries and numbers, and may, from time to time, designate the places at which elections shall be held. All general and special elections shall be held at the places so designated.

#### JUDGES AND CLERKS OF ELECTION.

**133. APPOINTED IN PRECINCTS.]** § 32. In counties not under township organization, the county board shall, annually, at its last regular session preceding the general election, appoint three capable and discreet electors to act as judges of election in each election precinct, and may at any time fill vacancies.

**134. APPOINTED IN TOWNS.]** § 33. In counties under township organization, where the county board shall have divided a town into several election districts, it shall at its last regular session preceding the general election, appoint three capable and discreet electors to act as judges of election in each election district in such town, and may at any time fill vacancies: *Provided*, that the supervisor, assessor and collector shall be designated as judges of election in the districts in which they respectively reside.

**135. NOTICE OF APPOINTMENT.]** § 34. Immediately on the appointment of such judges, the county clerk shall make out and deliver to the sheriff of the county a notice thereof, directed to each person so appointed, and the sheriff shall, within 20 days after the receipt of such notices, deliver the same to the several judges so appointed.

**136. APPOINTMENT SHALL CONTINUE.]** § 35. The judges so appointed shall be and continue judges of all general and special elections held within their respective precincts or districts, until other judges shall be appointed in like manner.

**137. VACANCIES: HOW FILLED.]** § 36. If, at the time for the opening of any election, any person appointed or constituted a judge of election shall not be present, or will not act or take the oath to act in such capacity, the judge or judges present may appoint some other qualified elector to act in his place. If there be no judge of election present, or he refuses to act, such electors of the precinct or district as may then be present at the place of election, may fill the places of such judges by election from their number. The judges so appointed shall have the same power and be subject to the same penalties as other judges of election.

**138. CLERKS: JUDGES TO SELECT.]** § 37. The judges of election shall choose two persons having similar qualifications with themselves to act as clerks of election, who may continue to act as such during the pleasure of the judges.

#### OATH OF JUDGES AND CLERKS OF ELECTION.

**139. OATH REQUIRED.]** § 38. Previous to any vote being taken, the judges and clerks of the election shall severally take an oath or affirmation, in the following form, to-wit: I do solemnly swear (or affirm, as the case may be,) that I will support the constitution of the United States and the constitution of the state of Illinois, and that I will faithfully discharge the duties of the office of judge of election (or clerk, as the case may be,) according to the best of my ability.

**140. ADMINISTERING OATH.]** § 39. In case there shall be no judge or justice of the peace present at the opening of the election, or in case such judge or justice shall be appointed a judge or clerk of election, it shall be lawful for the judges of the election to administer the oath or affirmation to each other, and to the clerks of the election; and the person administering such oath or affirmation, shall cause an entry thereof to be made and subscribed by him, and prefixed to each poll book.

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BALLOT BOXES AND POLL BOOKS.

**141. NUMBER: LOCK: OPENING.]** § 40. The county board shall provide a sufficient number of ballot boxes, with secure locks and keys, at the expense of the county, for the several precincts and districts. There shall be an opening in the lid of each box not larger than is sufficient to admit a single closed ballot to be inserted therein at one time, through which each ballot voted shall be put into the box.

**142. KEPT BY THE JUDGES.]** § 41. The ballot boxes shall be delivered to and kept by the judges of election, and by them kept and delivered over to their successors.

**143. POLL BOOKS: BLANKS.]** § 42. The county clerk shall provide, at the expense of the county, proper blank, poll books and other necessary election blanks for each precinct and district in his county, and cause a suitable number thereof to be delivered to the judges of election, at least 10 days before any election is to be held.

CONSTABLES APPOINTED TO ATTEND ELECTIONS: ORDER.

**144. How APPOINTED.]** § 43. The county board may appoint one or more constables to attend each place of holding elections and preserve order during the election; if no constable is appointed by the county board to attend any place of holding election, or if others shall be necessary to preserve order, the judges of election may appoint one or more constables for that purpose.

**145. SPECIAL APPOINTMENTS.]** § 44. The judges of election may appoint any suitable person to act as a special constable during the election. Constables serving at such election shall be paid out of the county treasury, not exceeding \$2. per day for each day's service.

**146. DISORDER SUPPRESSED: ARRESTS.]** § 45. Any constable attending such election may call to his aid a sufficient number of citizens to arrest any disorderly person or suppress any riot or disorder during the election. Whoever conducts himself in a riotous or disorderly manner at any election and persists in such conduct after being warned to desist, may be arrested without warrant.

NOTICE OF ELECTION.

**147. THIRTY DAYS: TWENTY DAYS.]** § 46. At least 30 days previous to any general election and at least 20 days previous to any special election, except in cases otherwise provided for, the county clerk, in counties not under township organization, shall make out and deliver to the sheriff of his county, or in counties under township organization to the several supervisors of his county, three notices thereof for each precinct or district in which the election in such county is to be held.

**148. FORM OF THE NOTICE.]** The notice may be substantially as follows:

Notice is hereby given, that on (give the date,) at (give the place of holding the election and the name of the precinct or district,) in the county of (name of county,) an election will be held for (give the title of the several offices to be filled), which election will be opened at eight o'clock in the morning and continue open until seven o'clock in the afternoon of that day. Dated at . . . this . . . day of . . . A. D. 18 . . . A . . . B . . . County Clerk.

**149. POSTING NOTICES.]** § 47. The said sheriff, or supervisor to whom the notices are delivered, shall post up, in three of the most public places in each precinct or district, the three notices therefor at least 15 days before the time of holding a general election, and at least eight days before the time of holding a special election.

CONDUCTING ELECTIONS: RETURNS.

**150. OPENING POLLS: CLOSING.]** § 48. The polls shall be opened at the hour of eight o'clock in the morning, and continue open until seven o'clock in the afternoon of the same day, at which time the polls shall be closed; but if the judges shall not attend at the hour of eight o'clock in the morning, or if it shall be necessary for the electors present to appoint judges to conduct the election, as herein before prescribed, the polls may, in that case, be open at any hour before the time for closing the same shall arrive, as the case may require.

**151. PROCLAMATION MADE.]** § 49. Upon opening the polls, one of the clerks or judges of election shall make proclamation of the same, and at least 30 minutes before closing of the polls proclamation shall be made in like manner that the polls will be closed in half an hour.

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**152.** Box EXAMINED : LOCKED.] § 50. Before any ballot shall be deposited in the ballot box, the ballot box shall be publicly opened and exhibited and the judges and clerks shall see that no ballot is in such box; after which the box shall be locked and the key delivered to one of the judges, and shall not be again opened until the close of the polls.

**153.** POLL LISTS : NUMBERING.] § 51. Each clerk of the election shall keep a poll list, which shall contain a column headed "number," and another headed "names of voters." The name of each elector voting shall be entered upon each of the poll books by the clerks, in regular succession, under the proper headings, and the number of such voter placed opposite his name in the column headed "number."

**154.** BALLOT : PAPER : PRINTING.] § 52. The manner of voting shall be by ballot. The ballot shall be printed or written, or partly printed and partly written upon plain paper, with the name of each candidate voted for, and the title of the offices. When the ballot is printed, the same shall be printed upon plain paper, in plain type, in straight lines, with a blank space below each name, of a width not less than equal to the width of the line in which the name is printed.

**155.** CANDIDATES' NAMES : OFFICE.] § 53. The names of all candidates for which the elector intends to vote shall be written or printed upon the same ballot, and the office to which he desires each to be elected shall be designated upon the ballot.

**156.** VOTING FOR REPRESENTATIVE.] § 54. In voting for representatives to the general assembly, if the voter intends to give more than one vote to any candidate, he shall express his intention on the face of the ballot, in words or figures, which may be done in either of the following forms: A . . . B . . . , C . . . D . . . , E . . . F . . . , which shall be held to mean one vote for each candidate named; or A . . . B . . .  $1\frac{1}{2}$  votes, C . . . D . . .  $1\frac{1}{2}$  votes; or A . . . B . . . 2 votes, C . . . D . . . 1 vote; or A . . . B . . . 3 votes.

**157.** FOLDED : DELIVERED : INDORSED.] § 55. The ballot shall be folded by the voter and delivered to one of the judges of election, and if the judges be satisfied that the person offering the vote is a legal voter, the clerks of election shall enter the name of the voter and his number under the proper heading in the poll books, and the judges shall indorse on the back of the ticket offered, the number corresponding with the number of the voter on the poll books, and shall immediately put the ticket into the ballot box.

**158.** NO ADJOURNMENT : NO RECESS.] § 56. After the opening of the polls, no adjournment shall be had, nor shall any recess be taken, until all the votes cast at such election shall have been counted and the result publicly announced.

**159.** VOTES CANVASSED : IRREGULARITIES.] § 57. Immediately upon closing the polls, the judges shall proceed to canvass the votes polled. They shall first count the whole number of ballots in the box. If the ballots shall be found to exceed the number of names entered on each of the poll lists, they shall reject the ballots, if any be found upon which no number is marked; if the number of ballots still exceeds the number of names entered on each of the poll lists, they shall be replaced in the box and the box closed and well shaken and again opened, and one of the judges shall publicly draw out and destroy so many ballots unopened as shall be equal to such excess, and the ballots or poll lists agreeing or being made to agree, the board shall proceed to count, and estimate and publish the votes; and when the judges of election shall open and read the tickets, each clerk shall carefully mark down upon the tally-list the votes each candidate receives, in a separate column prepared for that purpose, with the name of such candidate at the head of such column, and the office designated by the votes such candidate shall fill.

**160.** SURPLUSAGE.] § 58. If more persons are designated for any office than there are candidates to be elected, or if more votes or parts of votes are designated on any ballot for representatives than the voter is entitled to cast, such part of the ticket shall not be counted for either of the candidates.

**161.** BALLOTS STRUNG : PRESERVED.] § 59. All the ballots counted by the judges of election shall, after being read, be strung upon a strong thread or twine, in the order in which they have been read, and shall then be carefully enveloped and sealed up by the judges, who shall direct the same to the officer to whom by law they are required to return the poll books, and shall be delivered, together with the poll books, to such officer,

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who shall carefully preserve said ballots for six months, and at the expiration of that time shall destroy them by burning, without the package being previously opened: *Provided*, if any contest of election shall be pending at such time in which such ballots may be required as evidence, the same shall not be destroyed till such contest is finally determined.

**162. IN CASE OF CONTEST.]** § 60. In all cases of contested election, the parties contesting the same shall have the right to have the said package of ballots opened, and said ballots referred to by witnesses for the purpose of such contest. But said ballots shall only be so examined and referred to in the presence of the officer having the custody thereof.

**163. POLL BOOK CERTIFIED.]** § 61. When the votes shall have been examined and counted, the clerks shall set down in their poll books the name of every person voted for, written at full length, the office for which such person received such votes, and the number he did receive, the number being expressed in words at full length; such entry to be made, as nearly as circumstances will admit, in the following form, to-wit:

At an election held at . . . in the county of . . . and state of Illinois, on the . . . day . . . A. D. 18 . . . the following named persons received the number of votes annexed to their respective names, for the following described offices, to-wit: (name of candidate) had (number of votes) for (title of office), (and in the same manner for any other persons voted for). Certified by us:

Attest: G : : : H : : : {	C : : : D : : : {
I : : : J : : : }	E : : : F : : : }

A : : : B : : : }  
C : : : D : : : } Judges of election.  
E : : : F : : : }

**164. DELIVERED TO COUNTY CLERK.]** § 62. Such certificate, together with one of the lists of voters, and one of the tally papers, having been carefully enveloped and sealed up, shall be put into the hands of one of the judges or board of election, who shall, within four days thereafter, deliver the same to the county clerk or his deputy, at the office of said county clerk; and when received, such clerk or deputy shall proceed to open, canvass and publish the return from each precinct or election district, as provided by law.

**165. MILEAGE: PER DIEM.]** § 63. The judges and clerks of election shall be allowed the sum of \$3. each per day for their services in attending each election; and the judge who carries the said returns to the county clerk shall also receive five cents per mile, each way.

**166. CHALLENGERS ALLOWED.]** § 64. The judges of election shall allow at least one, and not more than two legal voters of each party to the contest, to be chosen by the parties respectively, into the room where the election is held, to act as challengers of voters at such election, and such challengers may remain with the board of election until the votes are all canvassed and the result declared.

## QUALIFICATION OF VOTERS.

**167. QUALIFICATIONS OF VOTER.]** § 65. Every person having resided in this state one year, in the county 90 days, and in the election district 30 days next preceding any election therein, who was an elector in this state on the first day of April, A. D. 1848, or obtained a certificate of naturalization before any court of record in this state prior to the first day of January, A. D. 1870, or who shall be a male citizen of the United States, above the age of 21 years, shall be entitled to vote at such election.

**168. PERMANENT ABODE.]** § 66. A permanent abode is necessary to constitute a residence within the meaning of the preceding section.

**169. CHALLENGE: OATH REQUIRED.]** § 67. Whenever, at any general or special election, in any precinct, district, city, village, town or ward, any person offering to vote is not personally known to the judges of election to have the qualifications mentioned in the two preceding sections, if his vote is challenged by a legal voter at such election, he shall make and subscribe an affidavit, in the following form, which shall be retained by the judges of election, and returned by them with the poll books:

**170. FORM OF THE OATH.]**

State of Illinois, County of Cook, ss. I, . . . do solemnly swear (or affirm) that I am a citizen of the United States, (or, "that I was an elector on the first day of April, A. D. 1848," or, "that I obtained a certificate of naturalization before a court of record in this state prior to the first day of January, A. D. 1870," as the case may be,) that I have resided in this state one year, in this county 90 days, and in this election district 30 days next preceding this election; that I now reside at (here give the particular

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house or place of residence, and, if in a town or city, the street and number,) in this election district; that I am 21 years of age, and have not voted at this election: so help me God, (or, "this I do solemnly and sincerely affirm," as the case may be.)

Subscribed and sworn to before me, this . . . day of . . . A. D. 18 . . . . .

**171. OATH OF A WITNESS.]** § 68. In addition to such an affidavit, the person so challenged shall produce a witness, personally known to the judges of election, and resident in the precinct or district, or who shall be proved by some legal voter of such precinct or district, known to the judges to be such, who shall take the oath following, viz:

I do solemnly swear (or affirm) that I am a resident of this election precinct (or district), and entitled to vote at this election, and that I have been a resident herein for one year last passed, and am well acquainted with the person whose vote is now offered; that he is an actual and bona fide resident of this election precinct (or district), and has resided herein 30 days, and, as I verily believe, in this county 90 days and in this state one year next preceding this election.

**172. ADMINISTERING OATH.]** § 69. The oath, in each case, may be administered by either of the judges of election, or by any officer, resident in the precinct or district, authorized by law to administer oaths.

**173. PENITENTIARY CONVICT.]** § 70. No person who has been legally convicted of any crime, the punishment of which is confinement in the penitentiary, shall be permitted to vote at any election, unless he shall be restored to the right to vote by pardon.

## CANVASSING VOTES: CERTIFICATE OF ELECTION.

**174. ABSTRACTS OF VOTES.]** § 71. Within seven days after the close of the election, the county clerks of the respective counties, with the assistance of two justices of the peace of the county, shall open the returns and make abstracts of the votes in the following manner, as the case may require: Of votes for governor and lieutenant governor, on one sheet; of votes for other state officers, on another sheet; of votes for presidential electors, on another sheet; of votes for representatives to congress, on another sheet; of votes for judges of the supreme court, on another sheet; of votes for clerks of the supreme court, on another sheet; of votes for judges of the circuit court, on another sheet; of votes for senators and representatives to the general assembly, on another sheet; of votes for members of the state board of equalization, on another sheet; of votes for county officers, on another sheet. The foregoing abstracts shall be preserved by the county clerk in his office.

**175. CERTIFICATES OF ELECTION.]** § 72. The county clerk shall make out a certificate of election to each of the persons having the highest number of votes, for the several county offices, and deliver such certificate to the person entitled to it, on his application.

**176. TIE DECIDED BY LOT.]** § 73. When two or more persons receive an equal and the highest number of votes for an office to be filled by the county alone, the county clerk shall issue a notice to such persons of such tie vote, and require them to appear at his office, on a day named in the notice, within 10 days from the day of election, and determine by lot which of them is to be declared elected.

**177. MODE OF DRAWING.]** § 74. On the day appointed, the clerk and other canvassers, or, in case of their absence, the state's attorney or sheriff shall attend, and the parties interested shall appear and determine by lot which of them is to be declared elected; and the clerk shall issue his certificate of election to the person thus declared elected.

**178. PAY OF JUDGES AND CLERKS.]** § 75. It shall be the duty of the county clerk, on the receipt of the election returns of any general or special election, to make out his certificate, stating the compensation to which the judges and clerks of each election may be entitled for their services, and lay the same before the county board at its next session; and said board shall order the compensation aforesaid to be paid out of the county treasury.

**179. ABSTRACTS SENT TO SECRETARY.]** § 76. Immediately after the completion of the abstracts of votes, the county clerk shall envelope and seal up a copy of the abstracts of votes for governor, lieutenant governor, secretary of state, auditor of public accounts, treasurer, attorney general, and superintendent of public instruction, and indorse upon it in substance, "Abstracts of votes for state officers from . . . county," and address it "The speaker of the house of representatives." The county clerk shall, at the same time envelope and seal up a copy of each of the abstracts of votes for other officers, and in-

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dorse the same so as to show the contents of the package, and direct the same to the secretary of state. The several packages shall then be placed in one envelope and addressed to the secretary of state.

**180. HOW TRANSMITTED.]** § 77. Such abstracts shall be transmitted to the secretary of state by mail, or, in case it shall be necessary, by special messenger.

**181. CANVASSING THE VOTES.]** § 78. The secretary of state, auditor, treasurer and attorney general, or any two of them, in the presence of the governor, shall proceed, within 20 days after the election, and sooner, if all the returns are received, to canvass the votes given for representatives to congress, judges of the supreme court, clerks of the supreme court, judges of the circuit court, senators, representatives to the general assembly, and members of the state board of equalization, respectively; and the persons having the highest number of votes for the respective offices shall be declared duly elected;

**182. TIE DECIDED BY LOT.]** But if it appears that more than the number of persons to be elected have the highest and an equal number of votes for the same office, the secretary of state, in the presence of the other officers and the governor, shall decide by lot which of such persons shall be elected; and to each person duly elected, the governor shall give a certificate of election or commission, as the case may require, and shall cause proclamation to be made of the result of the canvass.

## OFFENSES AND PENALTIES.

**183. SALE OF LIQUOR: CLOSING SALOONS.]** § 79. No spirituous, malt, vinous or intoxicating liquor shall be sold or given away at retail, nor shall any saloon or bar room, or place where such liquor is so sold or given away, be open upon any general or special election day within one mile of the place of holding an election. Whoever violates the provisions of this section shall be fined in a sum not less than \$25. nor more than \$100. It shall be the duty of the sheriff, coroner, constables and other officers of the county, and magistrates, to see that the provisions of this section are enforced.

**184. SWEARING FALSELY.]** § 80. If any person whose vote is challenged, or any witness sworn under the provisions of this act, shall, knowingly, wilfully and corruptly, swear falsely, he shall be deemed guilty of perjury, and on conviction thereof shall be punished accordingly.

**185. VOTING UNLAWFULLY.]** § 81. Whoever unlawfully votes more than once at any election, or offers to vote after having once voted at such election; or knowing that he is not a qualified voter at an election, wilfully votes at such election, shall, on conviction thereof, be fined in a sum not exceeding \$1,000., or imprisoned in the county jail not exceeding one year, or both, in the discretion of the court.

**186. SUNDY OFFENSES PUNISHED.]** § 82. Whoever wilfully aids or abets any one not legally qualified to vote at an election, in voting or attempting to vote at such election; or, 2. Furnishes an elector with a ticket or ballot informing him that it contains a name different from that which appears thereon, with intent to induce him to vote contrary to his inclination; or, 3. Fraudulently or deceitfully changes a ballot of an elector, with intent to deprive such elector of voting for such person as he intended; or, 4. Endeavors to procure the vote of any elector, or the influence of any person over an elector at any election, for himself or for or against any person, by means of a promise of a favor, or by means of violence or threats of violence, or threats of withdrawing custom or dealing in business or trade, or enforcing the payment of a debt, or bringing a suit or criminal prosecution, or any other threat of injury to be inflicted by him or his means; or, 5. By offering a reward or bribe, or by treating to or giving spirituous, malt, or other liquor, either directly or indirectly, influences or attempts to influence any voter in giving or withholding his vote at an election; or, 6. By bribery, or by corrupt or unlawful means, prevents or attempts to prevent any voter from attending or voting at an election; or, 7. Gives or offers to give any valuable thing or bribe to any judge or clerk of election, as a consideration for some act to be done or omitted to be done, contrary to his official duty, in relation to such election, shall, on conviction thereof, be fined in a sum not exceeding \$1,000., or imprisoned in the county jail not exceeding one year, or both, in the discretion of the court.

**187. SOLICITING OR RECEIVING BRIBE.]** § 83. Whoever receives, requests or demands any bribe or reward forbidden by this act to be given, shall be liable to the same penalties as are prescribed in this act for giving such bribe or reward.

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**188. DISORDERLY CONDUCT.]** § 84. Whoever is disorderly at any election shall forfeit a sum not exceeding \$25.

**189. BETTING ON ELECTION.]** § 85. Whoever bets or wagers any money, property or other valuable thing, upon the result of an election which may be held under the constitution or laws of this state, or bets or wagers money, property, or other valuable thing, upon the number of votes which may be given to any person at an election, or upon who will receive the greatest number of votes at an election; or agrees to pay any other person any money, property or other valuable thing, in the event that an election shall result in one way, or in the event that any person shall or shall not be elected, or shall receive a greater number of votes than others, upon conviction thereof he shall be fined in a sum not exceeding \$1,000., or imprisoned in the county jail not exceeding one year, or both, in the discretion of the court.

**190. OFFENSES BY JUDGES.]** § 86. If any judge of any election shall permit a person to vote whose vote is challenged, without the proof required in this act; or, 2. Shall knowingly and wilfully permit a person to testify as a witness contrary to the provisions of this act; or, 3. Shall knowingly permit a person to vote who is not qualified according to law; or, 4. Shall knowingly receive and count more than one vote from the same person at the same election for the same office, except as allowed by law; or, 5. Shall refuse to receive the vote of a qualified elector at such election, who will make the affidavit and proof required by this act; or, 6. Shall be guilty of any fraud, corruption, partiality or manifest misbehavior; or, 7. Shall open or unfold any ballot when the same is presented to be deposited in the ballot box; or, 8. Shall wilfully neglect to perform any of the duties required of him by this act, shall, on conviction thereof, be fined in a sum not exceeding \$1,000., or imprisoned in the county jail not exceeding one year, or both, in the discretion of the court.

**191. OFFICER REVEALING VOTE.]** § 87. If any judge or clerk of election shall wilfully or corruptly ascertain, by comparison of the poll book with the ballot, or shall allow any other person to ascertain by such comparison or otherwise, or shall wilfully publish or reveal how any elector voted at an election, he shall, on conviction thereof, be fined in any sum not exceeding \$1,000., or imprisoned in the county jail not exceeding one year, or both, in the discretion of the court.

**192. VOTE OTHERWISE REVEALED.]** § 88. If any person shall wilfully or corruptly ascertain or publish, or reveal how any elector voted at an election, he shall, on conviction thereof, be fined in any sum not exceeding \$1,000., or imprisoned in the county jail not exceeding one year, or both, in the discretion of the court.

**193. CLERK NEGLECTING DUTY.]** § 89. If any clerk of an election shall wilfully neglect to perform any duty required of him as clerk of election, or shall be guilty of fraud, corruption or misbehavior as such clerk, he shall, on conviction, be fined in a sum not exceeding \$500., or imprisoned in the county jail not exceeding six months, or both, in the discretion of the court.

**194. FAILURE TO DELIVER POLL BOOKS.]** § 90. If any judge, clerk or messenger, after having been deputed by the judges of election to carry the poll books, tally list and votes of such election to the place where, by law, they are required to be canvassed, wilfully or negligently fails to deliver such poll books, tally list or ballots within the time prescribed by law, with the seal unbroken, he shall, upon conviction, be fined in a sum not exceeding \$500., or imprisoned in the county jail not exceeding six months, or both, in the discretion of the court.

**195. COUNTY CLERK FAILING.]** § 91. If the county clerk wilfully neglects or refuses to perform any duty required of him by this act, he shall, upon conviction, be fined in a sum not exceeding \$500., and shall be liable to the person injured by reason of such neglect or refusal, in an amount not exceeding \$500., to be recovered in an action on the case.

**196. FRAUD: CORRUPTION: MISBEHAVIOR.]** § 92. If any county clerk or justice of the peace shall be guilty of any fraud, corruption or misbehavior, in canvassing the votes or making any abstract of votes, or issuing any certificate of election, he shall, on conviction, be fined in any sum not exceeding \$500., or imprisoned in the county jail not exceeding one year, or both, in the discretion of the court.

**197. INJURING OR DESTROYING POLL BOOK.]** § 93. Whoever shall wilfully and wrongfully take or carry away from the place where it has been deposited for safe keep-

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ing, or deface, mutilate or change any poll book, ballot or tally list or any name or figure therein, shall, on conviction, be fined in a sum not exceeding \$1,000., or imprisoned in the county jail not exceeding one year, or both, in the discretion of the court.

## CONTESTING ELECTIONS.

**198. GOVERNOR: LIEUTENANT GOVERNOR: SECRETARY: AUDITOR: TREASURER: SUPERINTENDENT: ATTORNEY GENERAL.]** § 94. The legislature in joint meeting shall hear and determine cases of contested elections of governor and lieutenant governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction, and attorney general. The meeting of the two houses, to decide upon such elections, shall be held in the hall of the house of representatives, and the speaker of the house shall preside.

**199. SENATORS: REPRESENTATIVES.]** § 95. The senate and house of representatives shall severally hear and determine contests of the election of their respective members.

**200. JUDGES: SUPREME CLERKS: BOARD OF EQUALIZATION.]** § 96. The supreme court shall hear and determine contests of the election of judges of the supreme court, clerks of the supreme court, judges of the circuit court, judges of the superior court of Cook county, members of the state board of equalization; but no judge of the supreme court shall sit upon the hearing of any case in which he is a party.

**201. COUNTY JUDGES: REMOVING COUNTY SEATS.]** § 97. The circuit courts of the respective counties shall hear and determine contests of the election of the judges of the county court of their counties, and in regard to the removal of county seats, and in regard to any other subject which may by law be submitted to the vote of the people of the county.

**202. COUNTY AND TOWNSHIP OFFICERS.]** § 98. The county court shall hear and determine contests of election of all other county, township and precinct officers, and all other officers for the contesting of whose election no provision is made.

**203. STATE OFFICERS: NOTICE.]** § 99. When any elector shall desire to contest the election of governor, lieutenant governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction, or attorney general, he shall, within 10 days after the result of the election shall have been determined, present a petition to the general assembly, setting forth the points on which he will contest such election, and praying for leave to produce his proof.

**204. COMMITTEE TO TAKE TESTIMONY.]** § 100. The general assembly shall appoint a joint committee to take the testimony on the part of the petitioner, and the person whose place is contested.

**205. POWER OF COMMITTEE.]** § 101. The committee so appointed shall have power to send for witnesses, and compel the attendance of witnesses and the production of papers, issue commissions under the hand of its chairman, to any officer authorized to take depositions in other cases, to take the deposition of witnesses upon the points set forth in the petition, at such time and place as the commission shall direct.

**206. NOTICE: TAKING DEPOSITIONS.]** § 102. Reasonable notice shall be given by the party in whose favor the deposition is to be taken, to the opposite party, of the time and place of taking the same.

**207. POINTS IN THE PETITION.]** § 103. No testimony shall be taken except upon the points set forth in the petition.

**208. FACTS REPORTED: THE HEARING.]** § 104. The committee shall report the facts to the house, and a day shall be fixed by a joint resolution for the meeting of the two houses to decide upon the same, in which decision the yeas and nays shall be taken and entered upon the journal.

**209. SENATOR OR REPRESENTATIVE CONTESTED.]** § 105. The election of any member declared duly elected to a seat in the senate or house of representatives of the general assembly, may be contested by any qualified voter of the county or district to be represented by such senator or representative.

**210. NOTICE OF THE CONTEST.]** § 106. The contestant shall, within 30 days after the result of the election shall have been determined, serve on the person whose election he will contest, a notice of his intention to contest such election, expressing the points on which the same will be contested; and shall, also, on or before the next session of the

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general assembly, deliver a copy of such notice to the secretary of state. In case the person whose election is contested is absent, or cannot be found, service may be had by leaving a copy of such notice at his usual place of residence.

**211. NOTICE: TAKING TESTIMONY.]** § 107. Whenever a notice shall have been given of intention to contest an election, as provided in the preceding section, either party may proceed to take testimony of any witness before any judge, justice of the peace, clerk of a court, master in chancery, or notary public, on giving to the adverse party or his attorney, 10 days' notice of the time and place of taking the same, and one day in addition thereto (Sunday inclusive) for every 50 miles' travel from the place of residence of such party to the place where such deposition is to be taken. If the party entitled to notice resides in the county where the deposition is to be taken, five days' notice shall be sufficient.

**212. PAPERS PRODUCED: WITNESSES.]** § 108. The officer before whom depositions are taken shall have power to compel the production of papers, and the attendance of witnesses; and the same proceedings may be had to compel the attendance of witnesses as are provided in the cases of taking depositions to be used in courts of law and equity.

**213. DEPOSITIONS SENT TO SECRETARY.]** § 109. A copy of the notice to take depositions, with proof of the service thereof, with the deposition, shall be sealed up and transmitted by mail, or otherwise, to the secretary of state, with an indorsement thereon, showing the names of the contesting parties, the office contested, and the nature of the papers.

**214. DUTY OF THE SECRETARY.]** § 110. The secretary of state shall deliver the copy of the notice deposited with him by the contestant, and the depositions, unopened, to the presiding officer of the branch of the general assembly to which the contest relates, on or before the second day of its session next after the receipt of the same; and the presiding officer shall immediately give notice to his house that such papers are in his possession.

**215. FURTHER TESTIMONY TAKEN.]** § 111. Nothing herein contained shall be construed to abridge the right of either branch of the general assembly to grant commissions to take depositions, or to send for and examine any witnesses it may desire to hear on such trial.

**216. ELECTOR MAY CONTEST.]** § 112. The election of any person declared elected to any office other than governor, lieutenant governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction, attorney general, senator or representative, may be contested by any elector of the state, judicial division, district, county, town or precinct in and for which the person is declared elected.

**217. NOTICE OF CONTEST.]** § 113. The person desiring to contest such election shall, within 30 days after the person whose election is contested is declared elected, file with the clerk of the proper court a statement, in writing, setting forth the points on which he will contest the election, which statement shall be verified by affidavit in the same manner as bills in chancery may be verified.

**218. SUMMONS ISSUED: SERVICE.]** § 114. Upon the filing of such statement, summons shall issue against the person whose office is contested, and he may be served with process, or notified to appear in the same manner as is provided in cases in chancery.

**219. EVIDENCE TAKEN.]** § 115. Evidence may be taken in the same manner, and upon like notice, as in cases in chancery.

**220. THE TRIAL.]** § 116. The case shall be tried in like manner as cases in chancery.

**221. ANY OTHER ELECTIONS CONTESTED.]** § 117. Any five electors of the county may contest an election upon any subject which may by law be submitted to a vote of the people of the county, upon filing in the circuit court, within 30 days after the result of the election shall have been determined, a written statement in like form as in other cases of contested elections in the circuit court. The county shall be made defendant, and process shall be served as in suits against the county; and like proceedings shall be had as in other cases of contested elections before such court.

**222. COUNTY NOT DEFENDING.]** § 118. In case the county board shall fail or refuse properly to defend such contest, the court shall allow any one or more electors of the county to appear and defend, in which case the electors so defending shall be liable for the costs in case the judgment of the court shall be in favor of the contestant.

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**223. JUDGMENT AFTER CONTEST.]** § 119. The judgment of the court, in cases of contested election, shall confirm or annul the election according to the right of the matter; or, in case the contest is in relation to the election of some person to an office, shall declare as elected the person who shall appear to be duly elected.

**224. RESULT BEING A TIE.]** § 120. If it appears that two or more persons have, or would have had if the legal ballots cast or intended to be cast for them had been counted, the highest and an equal number of votes for the same office, the persons receiving such votes shall decide by lot, in such manner as the court shall direct, which of them shall be declared duly elected; and the judgment shall be entered accordingly.

**225. COPY OF JUDGMENT.]** § 121. A certified copy of the judgment of the courts shall have the same effect as to the result of the election as if it had been so declared by the canvassers.

**226. VOID FOR DISQUALIFICATION.]** § 122. When the person whose election is contested is found to have received the highest number of legal votes, but the election is declared null by reason of legal disqualification on his part, or for other causes, the person receiving the next highest number of votes shall not be declared elected, but the election shall be declared void.

**227. APPEALS ALLOWED.]** § 123. In all cases of contested elections in the circuit courts or county courts, appeals may be taken to the supreme court in the same manner, and upon like conditions as is provided by law for taking appeals in cases in chancery from the circuit courts.

## RESIGNATIONS AND VACANCIES.

**228. RESIGNATION: TO WHOM.]** § 124. Resignations of elective offices shall be made to the officer, court or county board authorized by law to fill a vacancy in such office by appointment, or to order an election to fill such vacancy.

**229. VACANCY: HOW CAUSED.]** § 125. Every elective office shall become vacant on the happening of either of the following events, before the expiration of the term of such office: 1. The death of the incumbent. 2. His resignation. 3. His becoming insane. 4. His ceasing to be an inhabitant of the state; or, if the office is local, his ceasing to be an inhabitant of the district, county, town or precinct for which he was elected. 5. His conviction of an infamous crime, or of any offense involving a violation of official oath. 6. His removal from office. 7. His refusal or neglect to take his oath of office; or to give or renew his official bond, or to deposit or file such oath or bond within the time prescribed by law. 8. The decision of a competent tribunal declaring his election void.

**230. EXISTENCE OF VACANCY DETERMINED.]** § 126. Whenever it is alleged that a vacancy in any office exists, the officer, court, or county board whose duty it is to fill the vacancy by appointment, or to order an election to fill such vacancy, shall have power to determine whether or not the facts occasioning such vacancy exist.

**231. SPECIAL ELECTION: PROCLAMATION.]** § 127. In case of vacancies in the offices of governor and lieutenant-governor, the officer performing the duties of the office of governor or if there is no such officer, the secretary of state shall issue a proclamation appointing a day for a special election to fill such vacancies; and shall issue a writ of election to the county clerks of the several counties in the state, and shall also, when necessary, call a special session of the general assembly to canvass the votes cast at such election; but if such vacancies shall occur not more than 90 days before a general election for members of the legislature, the vacancies shall be filled at such general election; in which case no special session of the general assembly to canvass the votes shall be deemed necessary.

**232. GOVERNOR TO APPOINT.]** § 128. When a vacancy shall occur in the office of secretary of state, auditor of public accounts, treasurer, attorney general, superintendent of public instruction, or member of the state board of equalization, the governor shall fill the same by appointment, and the appointee shall hold his office during the remainder of the term, and until his successor is elected and qualified.

**233. SPECIAL ELECTION ORDERED.]** § 129. When a vacancy shall occur in the office of senator or representative in the general assembly, it shall be the duty of the county clerk of the county in which the member whose office is vacant resided, to notify the governor of such vacancy. Whereupon the governor shall issue a writ of election to

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the county clerk or clerks of the county or counties in which the vacancy is to be filled, fixing a day upon which an election shall be held to fill such vacancy; but unless the general assembly shall be in session at the time the vacancy occurs, or there shall be a session between the time at which the vacancy occurs and the next succeeding general election, no special election shall be ordered to fill such vacancy.

**234. MEMBER OF CONGRESS.]** § 130. When any vacancy shall occur in the office of representative in congress from this state, the governor shall issue a writ of election to the county clerks of the several counties in the district where the vacancy exists, appointing a day to hold a special election to fill such vacancy.

**235. SUPREME AND OTHER JUDGES.]** § 131. When a vacancy shall occur in the office of judge of the supreme court, judge of the circuit court, judge of the superior court of Cook county, or judge of the county court, the clerk of the court in which the vacancy exists shall notify the governor of such vacancy. If such vacancy shall occur within one year before the expiration of the term of the office made vacant, the governor shall fill such vacancy by appointment, but if the unexpired term exceeds one year, the governor shall issue a writ of election, as in other cases of vacancies, to be filled by election.

**236. COURT MAY APPOINT.]** § 132. When a vacancy shall occur in the office of clerk of the supreme court, clerk of the circuit court, clerk of the superior court of Cook county, or clerk of the county court, within one year before the expiration of the term of an office made vacant, the vacancy shall be filled by appointment by the court, or the judge or judges of the court to which the office appertains; but if the unexpired term exceeds one year, the governor shall issue a writ of election, as in other cases of vacancies, to be filled by election.

**237. COUNTY BOARD TO APPOINT.]** § 133. When a vacancy shall occur in the office of county commissioner, state's attorney, sheriff, coroner, county clerk, recorder of deeds, county treasurer, county surveyor, justice of the peace, constable, or other county or precinct officer not otherwise provided for by law, within one year before the expiration of the term of such vacant office, the vacancy shall be filled by appointment, by the county board of the county in which the vacancy exists; but if such unexpired term exceeds one year, the county clerk, or in case of a vacancy in his office the chairman of the county board, shall issue an order appointing a day for an election to fill such vacancy, and cause notice thereof to be given as in other cases of election.

## TO WHAT ELECTIONS THIS ACT MAY APPLY.

**238. ALL ELECTIONS IN THE STATE.]** § 134. The provisions of this act shall apply, as far as practicable, to all elections in the state, whether general, special, local or municipal, except so far as they are modified or contravened by other legal enactments.

## REPEAL.

**239. LIST OF REPEALED ACTS.]** § 135. The following acts are hereby repealed: Chapter 37 of the Revised Statutes of 1845, entitled "Elections;"<sup>1</sup> an act entitled "An act to amend the seventh section of the 37th chapter of the revised laws of 1845, in relation to elections,"<sup>2</sup> approved 23 Feb. 1847; an act entitled "An act to provide for the mode of voting by ballot, and for the manner of returning, canvassing and certifying votes,"<sup>3</sup> approved 12 Feb. 1849; an act entitled "An act to provide for the filling of vacancies in certain county offices,"<sup>4</sup> approved 6 Nov. 1849; an act entitled "An act to prevent illegal voting at elections,"<sup>5</sup> approved 21 Feb. 1861; an act entitled "An act to provide for ascertaining the qualification of voters, and to prevent fraudulent voting,"<sup>6</sup> approved 22

<sup>1</sup> See Vol. 1, 243 etc. <sup>2</sup> See Vol. 1, 244 § 9. The title of this act is incorrectly recited; it reads: "An act to amend the seventh section of the forty-seventh chapter," etc. See Laws of 1847, 47. <sup>3</sup> See Vol. 1, 243, etc. Many portions of this act had already been repealed by the various amendatory laws. <sup>4</sup> See Vol. 1, 250 § 44. <sup>5</sup> See Vol. 1, 254 §§ 72 and 73. <sup>6</sup> See Vol. 1, 245 § 18; id. 246 § 22; id. 247 §§ 32 and 33; id. 254 §§ 74 to 78.

Three of the acts included in the above repeal were amended by two sections of an act of 1865. See Laws of 1865, 58 §§ 15 and 16. And also Vol. 1, 245 § 19; id. 254 §§ 72 and 74. But the amendatory act of 1865 is not repealed. Still, as this new act seems to cover the whole of the same ground, the omission is probably of little importance. Two other laws are here left unrepealed which are worthy of attention. One is an act of 1865 which provides, among other things, that in counties under township organization, the judges of election shall be elected at the town meeting. See Vol. 1, 258 §§ 95 to 97. The other is an act of 1869, extending the provisions of the Criminal Code to offenses at certain elections. See Vol. 1, 258 §§ 98 and 99.

*Compensation Fixed by a Jury - - - Parties Defendant.*

Feb. 1861 ; and all other acts inconsistent with the provisions of this act: *Provided*, that this section shall not be construed so as to affect any rights or causes of action that may have accrued before this act shall take effect.

The registry law of 1865 is not incorporated into the foregoing act; neither is it repealed. So much of it, therefore, as is not inconsistent with the new act, remains in force as before, and must be construed accordingly. It will be found in Vol. 1, 255 §§ 79 to 94, both inclusive.

## EMINENT DOMAIN.

*Former legislation on this subject will be found in Volume 1, under the title RIGHT OF WAY.*

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| <ul style="list-style-type: none"> <li>§ 1. Compensation : How Ascertained.</li> <li>§ 2. Petition to the Court.</li> <li>§ 3. The Parties Defendant.</li> <li>§ 4. Petition by the State.</li> <li>§ 5. Presented in Vacation.</li> <li>§ 6. Service and Publication.</li> <li>§ 7. Time of the Hearing.</li> <li>§ 8. Several Tracts : Amendments.</li> <li>§ 9. New Party Summoned.</li> <li>§ 10. Selection of the Jury.</li> <li>§ 11. Challenges : Filling Jury.</li> </ul> | <ul style="list-style-type: none"> <li>§ 12. The Oath of the Jury.</li> <li>§ 13. Examination : Evidence : Verdict.</li> <li>§ 14. No Benefits Deducted.</li> <li>§ 15. Order of the Court.</li> <li>§ 16. Cross Petition Filed.</li> <li>§ 17. Appeals Allowed.</li> <li>§ 18. The Bond on Appeal.<br/><i>When made : Amount : Approved.</i></li> <li>§ 19. Payment of Compensation.</li> <li>§ 20. Record of Proceedings.</li> <li>§ 21. Conflicting Acts Repealed.</li> </ul> |
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*An act to provide for the exercise of the right of eminent domain. Approved 10 April 1872. In force 1 July 1872.*

**1. COMPENSATION: HOW ASCERTAINED.]** § 1. Private property shall not be taken or damaged for public use without just compensation, and \* in all cases in which compensation is not made by the state in its corporate capacity, such compensation shall be ascertained by a jury, as hereinafter prescribed.

**2. PETITION TO THE COURT.]** § 2. In all cases where the right to take private property for public use, without the owner's consent, or the right to construct or maintain any public road, railroad, plank road, turnpike road, canal, or other public work or improvement, or which may damage property not actually taken, has been heretofore, or shall hereafter be conferred by general law or special charter upon any corporate or municipal authority, public body, officer or agent, person, commissioner or corporation, and the compensation to be paid for or in respect of the property sought to be appropriated or damaged for the purposes above mentioned, cannot be agreed upon by the parties interested, or in case the owner of the property is incapable of consenting, or his name or residence is unknown, or he is a non-resident of the state, it shall be lawful for the party authorized to take or damage the property so required, or to construct, operate and maintain any public road, railroad, plank road, turnpike road, canal or other public work or improvement, to apply to the judge of the circuit or county court, either in vacation or term time, where the said property or any part thereof is situate, by filing with the clerk a petition, setting forth, by reference, his or their authority in the premises, the purpose for which said property is sought to be taken or damaged, a description of the property, the names of all persons interested therein as owners or otherwise, as appearing of record, if known, or if not known, stating that fact, and praying such judge to cause the compensation to be paid to the owner to be assessed.

**3. THE PARTIES DEFENDANT.]** If the proceedings seek to affect the property of persons under guardianship, the guardians or conservators of persons having conservators, shall be made parties defendant, and if of married women, their husbands shall also be made parties. Persons interested, whose names are unknown, may be made parties defendant by the description of the unknown owners, but in all such cases an affidavit shall be filed by or on behalf of the petitioner, setting forth that the names of such persons are unknown.

*Petition by the State - - - Order of the Court.*

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**4. PETITION BY THE STATE.]** In cases where the property is sought to be taken or damaged by the state for the purpose of establishing, operating or maintaining any state house or state charitable or other state institutions or improvenents, the petition shall be signed by the governor or such other person as he shall direct, or as shall be provided by law.

**5. PRESENTED IN VACATION.]** § 3. If such petition be presented to a judge in vacation, the judge shall note thereon the day of presentation, and shall also note thereon the day when he will hear the same, and shall order the issuance of summons to each resident defendant, and the publication of notice as to each non-resident defendant, and the clerk of the court shall at once issue the summons and give the notices accordingly.

**6. SERVICE AND PUBLICATION.]** § 4. Service of such summons and publication of such notice shall be made as in causes in chancery.

**7. TIME OF THE HEARING.]** § 5. Causes may be heard by such judges in vacation as well as in term time, but no cause shall be heard earlier than 10 days after service upon defendant, or upon due publication against non-residents.

**8. SEVERAL TRACTS: AMENDMENTS.]** Any number of separate parcels of property, situate in the same county, may be included in one petition, and the compensation for each shall be assessed separately, by the same or different juries, as the court or judge may direct. Amendments to the petition, or to any paper or record in the cause, may be permitted whenever necessary to a fair trial and final determination of the questions involved.

**9. NEW PARTY SUMMONED.]** Should it become necessary at any stage of the proceedings to bring a new party before the court or judge, the court or judge shall have the power to make such rule or order in relation thereto as may be deemed reasonable and proper; and shall also have power to make all necessary rules and orders for notice to parties of the pendency of the proceeding and to issue all process necessary to the execution of orders and judgments as they may be entered.

**10. SELECTION OF THE JURY.]** § 6. In cases fixed for hearing of petition in vacation, it shall be the duty of the clerk of the court in whose office the petition is filed, at the time of issuing summons or making publication, to write the names of each of 64 disinterested freeholders of the county on 64 slips of paper, and in presence of two disinterested freeholders cause to be selected from said 64 names 12 of said persons to serve as jurors, such selection to be made by lot and without choice or discrimination; and the said clerk shall thereupon issue venire, directed to the sheriff of his county, commanding him to summon the 12 persons so selected as jurors to appear at the court-house in said county, at a time to be named in the venire.

**11. CHALLENGES: FILLING JURY.]** § 7. The petitioner and every party interested in the ascertaining of compensation, shall have the same right of challenge of jurors as in other civil cases in the circuit courts. If the panel be not full by reason of non-attendance, or be exhausted by challenges, the judge hearing such petition shall designate by name the necessary number of persons of proper qualification, and the clerk or justice shall issue another venire returnable instanter, and until the jury be full.

**12. OATH OF JURY.]** § 8. When the jury shall have been so selected, the court shall cause the following oath to be administered to said jury:

You and each of you do solemnly swear that you will well and truly ascertain and report just compensation to the owner (and each owner) of the property which it is sought to take or damage in this case, and to each person therein interested, according to the facts in the case as the same may be made to appear by the evidence, and that you will truly report such compensation so ascertained: So help you God.

**13. EXAMINATION: EVIDENCE: VERDICT.]** § 9. Said jury shall, at the request of either party, go upon the land sought to be taken, or damaged, in person, and examine the same, and after hearing the proof offered make their report in writing, and the same shall be subject to amendment by the jury under the direction of the court, or the judge, as the case may be, so as to clearly set forth and show the compensation ascertained to each person thereto entitled, and the said verdict shall thereupon be recorded:

**14. NO BENEFITS DEDUCTED.]** *Provided*, that no benefits or advantages which may accrue to lands or property affected, shall be set off against or deducted from such compensation, in any case.

**15. ORDER OF THE COURT.]** § 10. The judge, or court, shall, upon such report, proceed to adjudge and make such order as to right and justice shall pertain, ordering that

*Sale of State Lands.*

petitioner enter upon such property and the use of the same, upon payment of full compensation, as ascertained as aforesaid; and such order, with evidence of such payment, shall constitute complete justification of the taking of such property.

**16. CROSS PETITION FILED.]** § 11. Any person not made a party may become such by filing his cross petition, setting forth that he is owner or has an interest in property, and which will be taken or damaged by the proposed work; and the rights of such last named petitioner shall thereupon be fully considered, and determined.

**17. APPEALS ALLOWED.]** § 12. In all cases in either the circuit or county court, or before a circuit or county judge, an appeal shall lie to the supreme court.

**18. BOND ON APPEAL.]** § 13. In cases in which compensation shall be ascertained as aforesaid, if the party in whose favor the same is ascertained shall appeal such proceeding, the petitioner shall, notwithstanding, have the right to enter upon the use of the property upon entering into bond, with sufficient surety, payable to the party interested in such compensation, conditioned for the payment of such compensation as may be finally adjudged in the case; and in case of appeal by petitioner, petitioner shall enter into like bond with approved surety. Said bonds shall be approved by the judge before whom such proceeding shall be had, and executed and filed within such time as shall be fixed by said judge.

**19. PAYMENT OF COMPENSATION.]** § 14. Payment of compensation adjudged may, in all cases, be made to the county treasurer, who shall, on demand, pay the same to the party thereto entitled, taking receipt therefor; or payment may be made to the party entitled, his, her or their conservator or guardian.

**20. RECORD OF PROCEEDINGS.]** § 15. The court or judge shall cause the verdict of the jury and the judgment of the court to be entered upon the records of said court.

**21. CONFLICTING ACTS REPEALED.]** § 16. All laws and parts of laws in conflict with the provisions of this act are hereby repealed: *Provided*, that this act shall not be construed to repeal any law or part of law, upon the same subject, passed by this general assembly, but in all such cases this act shall be construed as providing a cumulative remedy.

## CHAPTER 38.

### ESCHEATS.

§ 7. *Sale by the Auditor.  
Upon Thirty Days' Notice.*

§ 8. *Deed to the Purchaser.  
§ 9. Proceeds of such Sales.*

*An act to provide for the sale of real property escheated to and vested in the state. Approved 4 April 1872. In force 1 July 1872.*

**7. AUDITOR MAY SELL LANDS.]** § 1. The auditor of public accounts is hereby authorized and empowered to dispose of any or all real property which may have escheated to, or shall hereafter escheat to, and become vested in the state, at public sale, at the county seat of the county in which such real property may be situated, to the highest bidder for cash, after having given at least 30 days' notice of the time, place and terms of sale, in some newspaper published in such county.

**8. DEED TO THE PURCHASER.]** § 2. Upon the payment of the purchase money, the auditor shall execute a deed under his hand and official seal, conveying to the purchaser all the right, title and interest of the state in and to such real property so sold.

**9. PROCEEDS OF SUCH SALES.]** § 3. The proceeds from such sales shall be paid into the state treasury as revenue fund, less the expenses of sale, and the auditor, in his biennial report, shall give a detailed statement of the property sold, moneys received, and expenses incurred under this act.

## CHAPTER 39.

### ESTRAYS.

#### ANIMALS.

- § 1. *Notice of Taking Up.*
- 2. *Appraisement Made.*
- 3. *Justice's Report.*
- 4. *Marks and Brands.*
- 5. *Description and Value.*
- 6. *Marks Registered.*
- 7. *Several Estrays.*
- 8. *Time of Taking Up.*
- 9. *Fat Hog — How Sold.*
- 10. *Proof of Notice.*
- 11. *Owner Appearing.*
- 12. *Use of Estrays.*
- 13. *Publication of Notice.*
- 14. *State Paper Designated.*
- 15. *County Paper Designated.*
- § 17. *Rights of the Owner.*

#### § 18. *After Sale of Estray.*

- § 19. *Horses and Mules.*
- § 20. *Time of Taking Up.*
- § 21. *Taker Up to be Householder.*
- § 22. *Sale of Estray.*
- § 23. *Penalties Against Justices.*
- § 24. *Liabilities of Taker Up.*

#### BOATS AND VESSELS.

- § 25. *When May be Taken Up.*
- § 26. *Notice Given — Owner's Rights.*
- § 27. *Fees of Officers.*
- § 28. *Other Penalties.*

#### LOST GOODS.

- § 29. *Former Act Revived.*
- § 30. *Duty of the Finder.*
- § 31. *Advertisement and Sale.*
- § 32. *Value Less than \$5.*

*R. S. § 1, 227. P. 535. S. 92. 1. NOTICES.]* Every person who shall take up any estray horse, mare, colt, mule or ass, after having given not less than 10 nor more than 15 days' notice, by posting up notices in three of the most public places in the justice's district in which he resides, shall take the same before some justice of the peace of the county where such estray shall be taken up, and make oath before such justice, that the same was taken up at his or her plantation or place of residence in said county, and that the marks or brands have not been altered since the taking up.

*Ibid. § 2. 2. APPRAISEMENT.]* The said justice shall then issue his warrant to three disinterested housekeepers in the neighborhood, unless they can otherwise be had, causing them to come before him to appraise said estray, after they or any two of them being sworn to appraise such estray, without partiality, favor or affection ; which appraisement, together with the marks, brands, stature, color and age of such horse, mare or colt, mule or ass, shall be entered in a book to be kept by such justice, and certified under his hand, and transmitted to the clerk of the county commissioners' court of such county, within 15 days after the same is taken up.

*Laws 1861, 175. 22 Feb. [23 Apr.] § 1. 3. JUSTICE'S REPORT.]* Every justice of the peace, before whom any estray or estrays may be brought for appraisal, shall be allowed 10 days after the appraisement to make report of the description of the estrays, as is required in the \* \* [preceding section,] to the clerk of the county. \*

*R. S. § 3, 228. P. 535. S. 93. 4. MARKS AND BRANDS.]* Any person who shall take up any head of neat cattle, sheep, hog or goat, after having given the notice required in § 1 of this chapter, shall go with some householder before a justice of the peace of the county, and make oath before him as is required in taking up an estray horse, mare or colt, mule or ass, and then such justice shall take from such housekeeper, upon oath, a particular description of the marks, brands, color and age of every such neat cattle, sheep, hog or goat, and said justice shall cause the said estrays to be appraised, in like manner as is required to be done in case of a horse, mare or colt, mule or ass ; which description and valuation shall be entered by such justice in a book to be kept by him as aforesaid, and by such justice transmitted to the clerk of the county commissioners' court of the county, to be by him kept as before directed : *Provided*, that in all cases where the value

*Description and Value Posted - - - Publication of Notice.*

of such neat cattle, sheep, goat or hog, does not exceed \$5., said justice shall not be required to make a return to the clerk as aforesaid; but shall enter in his estray book, the description and appraisement value of such sheep, hog or goat, and advertise the same in three of the most public places in his neighborhood.

*Ibid. § 4. 5. DESCRIPTION AND VALUE POSTED.]* Every such clerk shall cause a copy of such description and valuation of every neat cattle, sheep, hog or goat returned to him, to be publicly affixed at the court house door of his county, within five days after the same shall be transmitted to him as aforesaid, for which he shall receive the same fee as for entering the same in a book.

*Laws 1855, 175. 15 Feb. § 1. P. 1248. S. 98. 6. MARKS REGISTERED.* In the counties which have adopted or shall hereafter adopt township organization, the town clerk of every town thereof shall provide a book for the purpose of registering the mark, brands and color of any animals enumerated in Chap. 50 [39] of the revised statutes, taken up as an estray; which book shall be open at all times to inspection, by all persons interested therein, and shall be deemed a part of the records of said town.

*Ibid. § 2. 7.]* Any person who shall take up any estray, according to the provisions of the act to which this is an amendment, shall cause to be registered in the book required to be provided in the foregoing act, the marks, brands and color of said estray, within five days from the time of such taking up.

*R. S. § 5, 228. P. 536. S. 93. 8. SEVERAL ESTRAYS.]* If two or more estrays of the same species are taken up by the same person, at the same time, they shall be included in one entry and one advertisement, and in such case, such justice and clerk shall receive no more pay than for one of such species.

*Ibid. § 6. 9. TIME OF TAKING UP.]* No person shall be allowed hereafter, to take up and post any head of neat cattle, sheep, hog or goat, between the month of April and the first day of November, unless the same may be found in the lawful fence or inclosure of the taker up, having broken in the same; and for a reward of taking up, there shall be paid by the owner, \$1. for every horse, mare or colt, mule or ass; and for every head of neat cattle, 50 cents; and for every hog, sheep or goat, 25 cents, together with all reasonable charges.

*Laws 1851, 116. 15 Feb. [18 Apr.] § 1. P. 1247. S. 98. 10. FAT HOG—HOW SOLD.]* It shall be lawful for any person taking up an estray or fattened hog, between the first of November and first of March, after complying with the provisions of §§ 1 and 3 of the act to which this is an amendment, [Chap. 39] and stating on oath that he believes said estray has strayed from some drove, if no owner shall appear to prove said estray within the time specified in said notice, to sell said estray to the highest bidder, after giving public notice of such sale 10 days previous thereto; the proceeds to be disposed of as now provided by law in other cases.

*R. S. § 7, 228. P. 536. S. 93. 11. PROOF OF NOTICE.]* Proof of the giving of notice as required in §§ 1 and 3 of this chapter, may be made by the oath of the person advertising, or a credible witness, previous to the appraisement.

*Ibid. § 8. 12. OWNER APPEARING.]* If the owner of any such animals shall prove and take them away, before the appraisement thereof, he shall pay to the person who has care of the same, all reasonable charges for taking up and keeping the same.

*Ibid. § 9. 13. USING ESTRAYS.]* It shall not be lawful for persons taking up estrays, to use the same previous to advertising them, unless it be to milk cows, and the like, for the benefit and preservation of such animals.

*Ibid. § 10. 14. PUBLICATION OF NOTICE.]* It shall be the duty of the clerk of the county *commissioners' court*, when the description and valuation of any estray horse, mare or colt, mule or ass, shall be transmitted to him by the justice as aforesaid, and in 10 days thereafter [to] make out a copy thereof, and transmit the same to the public printer of the state, and indorse thereon, "Estray papers," together with the sum of \$1., to pay the said printer; which sum the taker up is required to deposit with the clerk prior to the expiration of said 10 days. It shall be the duty of the public printer to publish said advertisement, and transmit one copy of each number of his paper to each of the clerks of the county *commissioners' court* of the several counties of this state, free of charge, which shall be regularly filed by said clerks in their respective offices, for the examination of those who may desire it.

*State Paper - - - Sale of Estray.*

*Laws 1849, 76. 12 Feb. [13 Apr.] § 1. P. 540. S. 97. 15. STATE PAPER—How DESIGNATED.* \* \* The preceding section] is hereby so amended as to require the publication of estray notices in some public newspaper to be designated by the governor, and the publisher of said newspaper, so designated, is hereby made subject to all the requirements provided in said chapter in regard to the public printer.

*Laws 1861, 121. 21 Feb. § 1. 16. COUNTY PAPER—How DESIGNATED.]* The estray notices now required by law to be published in some newspaper designated by the governor, in the city of Springfield, shall hereafter be published also in some newspaper printed in the county in which said estray may be taken up; said newspaper to be designated by the county clerk of said county; and hereafter the fee paid to the newspaper in Springfield for said publication be 50 cents for each such notice, and the fee paid to the newspaper selected by the county clerk for each such publication, shall be 50 cents.

*R. S. § 11, 229. P. 536. S. 94. 17. RIGHTS OF THE OWNER.]* And if no owner appear and prove his property within one year after such publication, the property shall be vested in the taker up; nevertheless, the former owner may, at any time thereafter, by proving his property, recover the valuation money, upon payment of costs and all reasonable charges.

*Ibid. § 12. 18. ESTRAY SOLD, ETC.—OWNER APPEARING.]* And if any person shall trade, sell or take away any such estray or estrays out of the state, for any purpose whatever, before the expiration of said one year, he or she so offending, shall be liable to indictment in the circuit court of the proper county, and on conviction thereof, shall be fined in a sum double the value of the property, one-half to the owner thereof, and the other half to the county treasury; and when the owner of any estray head of neat cattle, sheep, hog or goat, does not prove his property within 12 months after the same has been published at the door of the court house as aforesaid, and when the valuation does not exceed \$5., the property shall be vested in the taker up; but when the valuation shall exceed \$5., and no owner appear within the time aforesaid, the property shall also be vested in the taker up; nevertheless, the former owner may, at any time, by proving his property, recover the valuation thereof, upon payment of all reasonable costs and charges; and if the taker up and the owner cannot agree upon the charges, they shall call upon three disinterested householders, whose decision shall be binding on both parties; and it shall not be lawful for any person to take up any estray, (except such as shall be hereinafter excepted,) unless he shall be a freeholder or a housekeeper. — [But see § 21.]

*Ibid. § 13. 19. HORSES AND MULES.]* Any person finding a stray horse, mare, colt, mule or ass, running at large without any of the settlements of this state, may take up the same, and shall immediately take such estray or estrays before the nearest justice of the peace, and make oath that he has not altered the marks or brands of such estray since taking up; and if such taker up shall be a freeholder or housekeeper within that county, it may and shall be lawful for him to post such estray or estrays as hereinbefore directed in this chapter, as if the same had been taken up on his plantation or place of residence; and when the taker up shall not be qualified as aforesaid, he shall take the oath before required, and deliver such estray or estrays to the said justice, who shall cause the same to be dealt with as directed by this chapter.

*Laws 1847, 47. 28 Feb. § 1. P. 539. S. 97. 20. TIME OF TAKING UP.]* No horse, mare, colt, mule or ass, shall be taken up and posted between the first day of April and first day of November, unless the same be found out of the range of the proper owner, or within the lawful fence or inclosure of the taker up, having broken in the same, or manifestly running away from the owner.

*Ibid. § 2. 21. TAKER UP TO BE HOUSEHOLDER.]* No person who is not a householder of the county, shall be permitted, under the law to which this is an amendment, to take up and post any estray animal, enumerated either in this act or the act to which this is an amendment. — [Amends Chap. 39.]

*R. S. § 14, 229. P. 537. S. 94. 22. SALE OF ESTRAY.]* If no owner appear to prove his property within one year, such estray or estrays shall be sold to the highest bidder, giving public notice of such sale 20 days previous thereto, the purchaser giving a bond and approved security, payable to the county commissioners' court of the county where such estray shall be taken up; and after paying the taker up all reasonable charges, the balance shall be put into the county treasury by the said justice, who shall take a receipt for the same from the county treasurer; nevertheless, the former owner, at any time

*Penalties against Justice - - - Notice Given.*

within two years after taking up, by proving his property before the clerk of the county commissioners' court of said county, or before the justice of the peace before whom the property was taken up, and obtaining a certificate thereof from the clerk of said court or justice of the peace, to the treasurer, shall receive the balance aforesaid.

*Ibid.* § 15. **23. PENALTIES AGAINST JUSTICE.]** And when any justice of the peace shall fail to pay any money for any estray or estrays to be sold agreeably to this chapter, into the county treasury, within three months after selling such estray or estrays, such justice shall forfeit and pay the sum of \$20., with costs, to be recovered by action of debt, before any justice of the peace of the county, or other court having jurisdiction thereof, the one-half for the use of the county, and the other half for the use of any person suing for the same; and moreover, be liable to pay the price of such estray or estrays, with interest thereon.

*Ibid.* § 16. **24. LIABILITIES OF TAKER UP—PENALTIES.]** If any estray or estrays, taken up as aforesaid, shall die or get away before the owner shall claim his or her right, the taker up shall not be liable for the same; and if any person shall take up any estray or estrays, at any other place within the inhabited parts of this state than his or her plantation or place of residence, or without being qualified as required by this chapter, he shall forfeit and pay the sum of \$10., with costs, recoverable before any justice of the peace of the county where the offense shall have been committed, and not having property sufficient to pay such fine, he shall be liable to be confined one month in the jail of the county where he may be found, being found guilty of such offense according to law; and any person taking up any estray or estrays out of the limits of the settlements of this state, and failing to comply with the requisitions of this chapter, shall be liable to the same penalties; and if any person, taking up any estray or estrays of any species, fail to comply with the requisitions of this chapter, he shall, for every such offense, forfeit and pay to the informer, the sum of \$10., with costs, recoverable before any justice of the county where such offense shall be committed; one-half to the use of the county, and the other half to the person suing for the same.

*Ibid.* § 17. **25. BOATS AND WATER CRAFT.]** If any person or persons shall hereafter stop or take up any keel or flat boat, ferry flat, batteau, pirogue, canoe, or other vessel or water craft, or raft of timber, or plank found adrift on any water course within the limits or upon the borders of this state, and the same shall be of the value of \$5. or upwards, it shall be the duty of such person or persons, within five days thereafter, (provided the same shall not before that time be proven and restored to the owner,) to go before some justice of the peace of the proper county, and make affidavit in writing, setting forth the exact description of such vessel or craft, when and where the same was found, whether any, and if so, what cargo was found on board, and that the same has not been altered or defaced, either in whole or in part, since the taking up, either by him, her or them, or by any other person or persons, to his, her or their knowledge; and the said justice shall thereupon issue his warrant, directed to some constable of his county, commanding him forthwith to summon three respectable householders of the neighborhood, if they can not otherwise be had, whose duty it shall be, after being sworn by said justice, to proceed without delay to examine and appraise such boat or vessel, and cargo, if any, and make report thereof, under their hands and seals, to the justice issuing such warrant, who shall enter such appraisement, together with the affidavit of the taker up, at large in his estray book; and it shall be the further duty of said justice, within 10 days after the said proceedings shall have been entered in his estray book, as aforesaid, to transmit a certified copy thereof to the clerk of the county commissioners' court of his county, to be by him recorded in his estray book, and filed in his office.

*Ibid.* § 18. **26. NOTICE GIVEN—OWNER'S RIGHTS.]** In all cases where the appraisement of such boat or water craft, including her cargo, shall not exceed the sum of \$20., the taker up shall advertise the same on the door of the court house, and in three of the most public places in the county, within 10 days after the justice's said certificate shall have been entered on the records of the county commissioners' court; and if no person shall appear to prove and claim such boat or water craft, within six months from the time of taking up as aforesaid, the property in the same shall vest in the taker up; but if the value thereof shall exceed the sum of \$20., it shall be the duty of the clerk of the county commissioners' court, within 20 days from the time of the reception of the justice's

*Fees of Officers - - - Lost Goods — Advertisement.*

said certificate at his office, to cause an advertisement to be set up on the door of the court house, and also a notice thereof to be sent to the public printer as aforesaid, who shall publish the same as aforesaid; and if the said vessel be not claimed and proven within six months from said advertisement, the same shall be vested in the taker up; nevertheless, the former owner may, at any time thereafter, recover the valuation money by proving his property and allowing to the taker up a reasonable compensation for his trouble, and costs and charges.

*Ibid. § 19. 27. FEES OF OFFICERS.]* In all cases where services shall be performed by any officers or other person or persons under this chapter, the following fees or compensation shall be allowed, to-wit: To the justice of the peace for administering oath to the taker up or finder, making an entry thereof, with the report of the appraisers, and making and transmitting a certificate thereof to the clerk of the county *commissioners' court*, 50 cents; to the clerk or justice for taking proof of the ownership of, and granting a certificate of the same, 25 cents; for registering each certificate transmitted to him by any justice as aforesaid,  $12\frac{1}{2}$  cents; for advertisements, including the newspaper publications, 50 cents in addition to the cost of such publication; to the constable for each warrant so served on appraisers, 25 cents; and to each appraiser the sum of 25 cents; which said fees shall be paid by the taker up to the person entitled thereto, whenever said services shall be rendered. All which costs and charges shall be reimbursed to the taker up or finder, in all cases where restitution of the property shall be made to the owner, in addition to the reward to which such person may be entitled for taking up as aforesaid.

*Ibid. § 20. 28. OTHER PENALTIES.]* If any person shall act contrary to the duties enjoined by this chapter, for which no penalty is hereinbefore pointed out, the person so offending shall, on conviction thereof, forfeit and pay for every such offense, not less than \$5., nor more than \$100., to be sued for in the name of the proper county, before any justice of the peace or other court having cognizance thereof.

*Laws 1849, 75. 2 Jan. § 1. P. 1247. S. 97. 29. LOST GOODS — ACT REVIVED.]* Sections 1, 2, 3, 4 and 5 of an act entitled "An act concerning water crafts found adrift, lost goods and stray animals," approved Jan. 31, 1827, \* \* are hereby revised and revived, as well as all other parts of said act which applies to lost goods.—[Said §§ 1 and 2 are substantially the same as §§ 25 and 26 above; §§ 3, 4 and 5 are as follows:

*R. S. 1827, 189. 31 Jun. § 3. 30. DUTY OF THE FINDER.]* If any person or persons shall hereafter find any lost goods, money, bank notes, or other choses in action, of any description whatever, of the value of \$5. and upwards, it shall be the duty of such person or persons, to inform the owner thereof, if known, and to make restitution of the same, without any compensation whatever, except the same shall be voluntarily given on the part of the owner; but if the owner be unknown, such person or persons shall within five days after such finding as aforesaid, take such goods, money, bank notes, or other choses in action before some justice of the peace of the proper county, and make affidavit of the description thereof, the time and place, when and where the same was found, that no alteration had been made in the appearance thereof since the finding of the same, whereupon the justice shall enter a description of the property thus found and the value thereof as near as he can ascertain, in his estray book, together with the affidavit of the finder, to be taken as aforesaid; and shall also within 10 days after the said proceedings shall have been entered on his estray book as aforesaid, transmit to the clerk of the county *commissioners' court*, a certified copy thereof, to be by him recorded in his estray book, and to file the same in his office.

*Ibid. § 4. 31. ADVERTISEMENT — SALE.]* In all cases where such lost goods, money, bank notes, or other choses in action, shall not exceed the sum of \$15. in value, it shall be the duty of the finder to advertise the same on the door of the court house, and in three other of the most public places in the county, and if no person shall appear to claim and prove such money, goods, bank notes, or other choses in action, within 12 months from the time of such advertisement, the right to such property, where the same shall consist in goods, money or bank notes, shall be vested in the finder; but if the value thereof shall exceed the sum of \$15. it shall be the duty of the clerk of the county *commissioners' court*, within 20 days from the time of the reception of the justice's said certificate at his office, to cause an advertisement to be set up on the court house door, and in three other of the most public places in the county, and also a notice thereof to be

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*Value less than \$5.*

published for three weeks successively in some public newspaper printed in this state; and if the said goods, money, bank notes, or other choses in action, be not reclaimed within six months after the advertisement thereof as aforesaid, it shall be the duty of the finder, if the property shall consist in money or bank notes, to deliver the same to the county treasurer, after deducting the necessary expenses, hereinafter provided for: if in bonds, bills, notes of hand, patents, deeds of conveyance, articles of apprenticeship, mortgages, or other instruments of value, the same shall be delivered to the clerk of the county commissioners' court, to be preserved in his office, for the benefit of the owner whenever legal application shall be made therefor; if in goods, wares or merchandise, the same shall be delivered to the sheriff of the county, who shall thereupon proceed to sell the same, at public auction to the highest bidder for ready money, having first given 10 days' notice of the time and place of sale, and the proceeds of all such sales, after deducting the costs and other expenses, shall be paid into the county treasury.

*Ibid. § 5.* **32. VALUE LESS THAN \$5.]** In all cases where any vessel or water craft shall be taken up, or any goods, money or bank notes, shall be found as aforesaid, which shall be of a value less than \$5. it shall be his duty to advertise the same, by setting up three advertisements in the most public places in the neighborhood, but in such case, the taker up or finder shall be required to keep and preserve the same, in his or her possession, and shall make restitution thereof to the owner without fee or reward, except the same be given voluntarily, whenever legal application shall be made for the same: *Provided*, it be done within three months from the time of such taking up or finding; but if no owner shall appear to reclaim such property within the time aforesaid, the exclusive right to the same shall be vested in the finder or taker up.

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## CHAPTER 93.

### ROADS.

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**I. GENERAL RULES CONCERNING ROADS.**

*R. S. § 1, 480. P. 1040. S. 559. 1. MEET AND PASS TO THE RIGHT.] Whenever any persons traveling with any carriages, shall meet on any turnpike road or public highway in this state, the persons so meeting shall seasonably turn their carriages to the right of the centre of the road, so as to permit each carriage to pass without interfering or interrupting, under the penalty of \$5. for every neglect or offense, to be recovered by the party injured: Provided, this section shall not be construed to apply to any case, unless some injury to persons or property shall occur by the driver of the carriage or wagon refusing*

## I. General Rules Concerning Roads.

to turn to the right of the beaten track ; nor shall it be construed to extend to a case where it is impracticable, from the nature of the ground, for the driver of the carriage or wagon to turn to the right of the beaten track.

*Ibid. § 2. 2. OF DRIVERS.]* No person owning any carriage, running or traveling upon any road in this state, for the conveyance of passengers, shall employ, or continue in employment, any person to drive such carriage, who is addicted to drunkenness, or the excessive use of spirituous liquors ; and if any such owner shall violate the provisions of this section, after he shall have had notice and reasonable proof that such driver is addicted to drunkenness, he shall forfeit at the rate of \$5. per day for all the time during which he shall thereafter have kept any such driver in his employment, to be sued for by any person, and collected in any court having competent jurisdiction. The penalty, when recovered, shall be for the use of the poor of such county, except that the court in which the recovery shall be had, may allow a portion of said penalty, not exceeding \$25., to be retained by such complainant as a compensation for his services and expenses.

*Ibid. § 3. 3. INTOXICATION OF DRIVER.]* If any driver, whilst actually employed in driving any such carriage, shall be guilty of intoxication to such a degree as to endanger the safety of the passengers in the carriage, it shall be the duty of the owner of such carriage, on receiving written notice of the fact, signed by any one of said passengers, and certified by him, on oath, forthwith to discharge such driver from his employment ; and every such owner who shall retain or have in his employ, within three months after the receipt of such notice, any driver who shall have been so intoxicated, shall forfeit at the rate of \$5. per day for the time during which he shall keep any such driver in his employment after receiving such notice, to be sued for and applied as directed in the last preceding section.

*Ibid. § 4. 4. RUNNING HORSES.]* No person driving any carriage upon any turnpike road or public highway within this state, with or without passengers therein, shall run his horses or carriage, or permit the same to run, upon any occasion, or for any purpose whatever ; and every person who shall offend against the provisions of this section, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not exceeding \$100., or imprisoned not exceeding 60 days, at the discretion of the court.

*Ibid. § 5. 5. HORSES TO BE FASTENED.]* It shall not be lawful for the driver of any carriage used for the purpose of conveying passengers for hire, to leave the horses attached thereto, while passengers remain therein, without first making such horses fast with a sufficient halter, rope or chain, or by placing the lines in the hands of some other person, so as to prevent their running ; and if any such driver shall offend against the provisions of this section, he shall forfeit, for the use of the poor, the sum of \$20., to be recovered by action, to be commenced within six months ; and unless the amount of such recovery be paid forthwith, execution shall be immediately issued therefor.

*Ibid. § 6. 6. LIABILITY OF THE OWNERS.]* The owners of every carriage running upon any turnpike road or public highway, for the conveyance of passengers, shall be liable jointly and severally, to the party injured, in all cases, for all injuries and damages done by any person in the employment of such owners as a driver, while driving such carriage, to any person, or to the property of any person ; and that, whenever the act occasioning such injury or damage be wilful, negligent or otherwise, in the same manner as such driver would be liable. Any driver of any mail stage coach, or any other vehicle for the conveyance of passengers, wilfully offending against the provisions of this chapter, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be imprisoned not exceeding four months, or fined not exceeding \$300.

*Ibid. § 7. 7. VEHICLES INCLUDED.]* The term "carriage," as used in this chapter, shall be construed to include stage coaches, wagons, carts, sleighs, sleds, and every other carriage or vehicle used for the transportation of passengers and goods, or either of them.

*Ibid. § 8. 8. IN CITIES.]* Nothing contained in this chapter shall interfere with or affect any law concerning hackney coaches or carriages in any of the cities of this state, nor interfere with nor affect the laws or ordinances of any such city for the licensing or regulating such coaches or carriages. Justices of the peace shall have jurisdiction in all cases arising under this chapter, where the penalty does not exceed \$100.

*Ibid. § 9. 9. PUBLIC HIGHWAYS.]* All roads within this state, which have been laid out in pursuance of any law of this state, or of the late territory of Illinois, and which have not been vacated in pursuance of law, are hereby declared to be public highways.

## II. General Duties of Supervisors.

## II. GENERAL DUTIES OF SUPERVISORS.

*Ibid.* § 10. **10. POWER OF COUNTY COURTS.]** The county *commissioners'* courts of the several counties in this state shall have, and are hereby vested with general superintendence over the public roads within their respective counties, and are hereby authorized to cause new roads to be located and made, and to alter or vacate public roads within their respective counties, in the manner hereinafter provided and pointed out.

*Ibid.* § 11. *Laws 1865, 111. 16 Feb. § 1.* **11. ROAD DISTRICTS—APPOINTMENT OF SUPERVISORS.]** The county *commissioners'* court of each county shall, at their December term, or as soon thereafter as may be, in each and every year, lay out and divide their respective counties into such road districts as they shall deem convenient and proper, defining accurately the boundaries of said districts; and they shall appoint one supervisor in each district, who shall serve one year, and continue in office until a successor shall be appointed.

*R. S. § 12, 481. P. 1042. S. 561. 12. SUPERVISORS TO BE NOTIFIED.]* It shall be the duty of the clerk of the county *commissioners'* court, in each county, to make out and deliver to the sheriff written notices to all the supervisors, as aforesaid, within 10 days after such appointment has been made, informing them of their said appointment, and describing the bounds of their respective districts, and the roads therein; and the said sheriff shall immediately deliver the said notices to the persons to whom the same shall be directed, respectively; and if any supervisor shall refuse to accept his said appointment the sheriff shall return the said notice to the clerk who issued the same, noting such refusal on the back thereof. But if the said supervisor shall agree to accept the same, such supervisor shall, within 15 days thereafter, return to the clerk of the county *commissioners'* court a list of the names of all persons residing within his road district liable to be taxed for road purposes; and the said sheriff shall notify the said clerk of such acceptance; and the said sheriff shall, in all cases, make return of acceptance or refusal within 20 days after the delivery to him of the notice aforesaid. For any failure on the part of the clerk to make out and deliver to the sheriff any one of the notices required by this section, he shall be fined in the sum of \$10., and the sheriff shall incur the same penalty for a failure to deliver any one of said notices in the manner and within the periods herein prescribed: *Provided*, that supervisors shall not be required to make such return unless the county *commissioners'* courts shall have levied a tax, according to the provisions of this chapter.

Repealed: See ROADS AND BRIDGES § 193.

*Ibid.* § 13. **13. SUPERVISOR REFUSING TO ACCEPT.]** When any person shall refuse to accept the appointment of supervisor, he shall be fined \$5., to be appropriated to road purposes: *Provided*, that the commissioners' court may excuse any supervisor from the payment of said fine, upon being satisfied that such person ought not to have been appointed. The commissioners' court shall have power, at any time, to remove from office any supervisor who shall fail or refuse to perform his duty; and all vacancies shall be filled at the term of the court at which any removal shall be made or vacancy occur.

*Ibid.* § 14. **14. DUTY OF SUPERVISOR.]** It shall be the duty of each supervisor to cause all the public roads within his district to be kept well cleared, smooth and in good repair: causing all stumps to be cut low, so as to afford at all times a free and safe passage to wagons and other carriages along such roads; to cause bridges and causeways to be made wherever the same shall be necessary, and to keep the same in repair; and to cause to be erected and kept in repair, at the forks or crossing place of every public road, a post and guide boards, with plain inscriptions thereon, in letters and figures, giving the direction and distance to the most noted places to which said roads may lead.

*Ibid.* § 15. **15. DUTY IN REPAIRING ROADS.]** Whenever any public road shall be obstructed by fallen timber, or in any other manner, and when any bridge or causeway shall be destroyed, or become impassable or dangerous to travelers, it shall be the duty of the supervisor to cause such obstruction to be removed, and to have such bridges or causeways rebuilt or repaired; and for that purpose he shall call out the persons bound to labor on the road in his district, or as many of them as may be necessary, but if the persons bound to perform such labor in his district shall have previously performed the

## III. Obstructions and Injuries to Roads.

number of days required by this chapter, or if the labor due from such persons shall not be sufficient, he shall then proceed to hire as many laborers or teams as may be necessary to remove such obstruction or repair such damages: *Provided*, the cost shall not exceed \$10.; and if the cost of such work shall be estimated by said supervisor to exceed \$10., then he shall report such obstruction or damage to any two or more of the county commissioners, whose duty it shall be, immediately, to cause such obstruction to be removed, or such bridge or causeway to be rebuilt or repaired, as the case may be, either by ordering the supervisor to hire laborers and teams for that purpose, or by making a contract with some fit person or persons, as they may deem best; and all moneys required to carry any of the provisions of this section into effect shall be paid out of the county treasury, on the order of the county *commissioners' court*.

## III. OBSTRUCTIONS AND INJURIES TO ROADS.

*Ibid.* § 16. **16. PENALTY FOR OBSTRUCTING A ROAD.** — Consult also Ch. 30 § 186.] If any person shall obstruct any public road, by falling a tree or trees across the same, by encroaching upon or fencing up the same, or by placing any other obstruction therein, he shall forfeit, for any such offense, a sum not exceeding \$10., and a sum not exceeding \$3. for every day he shall suffer such obstruction to remain, after he shall have been ordered to remove the same by any supervisor, county commissioner or justice of the peace; and if any person shall purposely destroy or injure any bridge or causeway, or remove any of the timber or plank thereof, or destroy or deface any guide board, post or mile stone, on a public road, or dig any drain or ditch across a public road, such person, so offending, shall be indicted or sued, before a justice of the peace, and on conviction, shall be fined in any sum, not less than \$5., nor more than \$100., except bridges, which shall be double the value thereof; and for burning a bridge, to be punished agreeable to the criminal code: *Provided however*, that this section shall not be construed to extend to any person who shall lawfully cut down any timber for rails, firewood, or other purposes, and who shall immediately remove the same out of the road; nor to any person through whose land a road shall run, who shall dig a ditch or drain across such road, and shall keep the same in good repair.

*Laws* 1852, 176. 22 June § 1. P. 1057. S. 574. **17. RECOVERY OF THE PENALTY.**] If any person or persons shall obstruct any public road in the manner provided in \* \* [the preceding section,] the penalty provided for in said section may be recovered either by an indictment or in an action of debt, before any justice of the peace of the county in which the offense was committed; which action may be brought in the name of and upon the complaint or information of any person who may complain, one half to the informer, the other half to the use of the county.

*Laws* 1847, 112. 17 Feb. § 7. P. 1055. S. 573. **18. INJURY TO ROAD BY PLOWING OR WASHING.**] If any person shall impair any public road by plowing, or turning a current of water so as to saturate or wash the same, he shall forfeit and pay a fine, for the first offense, \$5., and for a second offense, \$10., and at that rate for every additional offense; which fines shall be collected either before a justice of the peace, or by indictment in the circuit court, as now provided by law.

*Laws* 1861, 74. 20 Feb. § 1. **19. DRIVING ACROSS BRIDGES.**] If any person shall ride, lead or drive any wagon, carriage, dray, cart or other vehicle or conveyance, or any horse, mare, mule or ox, or other animal, over, on or across any public bridge, or any bridge used by the public, within the limits of this state, [faster than a walk,] he shall forfeit and pay for each offense the sum of \$5.; which penalty shall be collected, either before a justice of the peace, or by indictment in the circuit court of said county, as is now provided by \* \* [the last preceding section.]

*Ibid.* § 2. **20. SIGNS TO BE PUT UP.**] It shall be the duty of the commissioners of highways of each town, in counties under township organization, and of the county courts of all other counties, to cause boards to be placed upon the bridges across the principal streams in their respective towns. Said board shall be elevated, so as to be easily seen by travelers, and on each side of said boards shall be printed, in capital letters, the words "Five dollars fine for leading or driving any beast faster than a walk on or across this bridge."

## IV. Of Road Labor and Road Tax.

§ 22. Of the number of days of road labor required of each able-bodied man during the year; it was amended by the act of 28 Feb. 1845; R. S. 591 § 1; Laws 1845, 79 § 1; and it was finally repealed by the enactment of the following section:

*Laws 1847, 111. 17 Feb. § 1. P. 1054. S. 572. 21. OF THE ROAD LABOR REQUIRED.]* The county commissioners' courts of the several counties in this state, at the *March* term annually, shall fix and cause to be entered upon the records of their courts, a certain number of days, not exceeding five nor less than two, that each and every able-bodied man between the ages of 21 and 50 years (men of color not excepted) shall labor on some public road within the county during the year. And it shall be the duty of the clerk of said court to certify the number of days fixed as aforesaid in the notice to each supervisor appointed in said county.

*Laws 1863, 75. 13 Feb. [9 Aug.] § 1. 22. AT ANY TERM.]* The county courts of the several counties in this state, not having a township organization, may at any regular term of such courts, fix and cause to be entered of record, the number of days now required by law, that persons shall labor upon public roads in such counties.

*R. S. § 23, 485. P. 1045. S. 565. 23. OF THE LEVY OF ROAD TAX.]* The county commissioners' courts of the several counties in this state, in levying a tax, not exceeding 50 cents on every \$100. worth of taxable property in their counties respectively, for county purposes, which they are authorized by law to levy, may, at the time of fixing upon the amount of tax to be assessed and collected for county purposes, in their discretion, set apart any amount of the tax so levied for county purposes, not exceeding one-half of said levy for road purposes; and a column in the tax book, shall designate the amount of road tax due from each person to be collected.

*R. S. § 2, 591. P. 1051. S. 570. 24. FOREGOING AMENDED.]* The county commissioners' court of each and every county, in addition to the work required in \* \* [the foregoing § 21] may at their March term, annually, assess a road tax of not more than 20 cents on each \$100. worth of taxable property, real and personal, or either in their counties; and a column in the tax book shall designate the amount of such road tax due from each person, from whom the same is to be collected. \* \*

*Laws 1847, 111. 17 Feb. § 2. P. 1055. S. 572. 25. FURTHER AMENDMENT.]* If the county commissioners' court of any county shall deem it expedient, a road tax may be assessed and collected in said county, not exceeding 20 cents on each \$100. worth of taxable property, real and personal, as contemplated in \* \* [the last section].

§ 24. Duty of the county clerk with the road taxes after they were assessed; changed by the following section:

*R. S. § 3, 592. P. 1051. S. 570. 26. DUTY OF THE COUNTY CLERK WITH LIST OF ROAD TAX.]* The clerk of the commissioners' court, immediately on the return of the assessor's book, shall make out a list of the names of all persons owing road tax, in each road district in the county, with the amount of tax due from each person, ascertaining the road district to which such person properly belongs; which list shall be, by said clerk, handed to the sheriff, and by him delivered to the respective supervisors; and any clerk or sheriff who shall fail or neglect to perform the duties required in this section, within the time given to each, as specified in § 4 of the act to which this is an amendment, for serving notices on supervisors, shall be liable to the penalties stated in said section.—[This section is part of an act which nominally amends an act of 20 Feb. 1841, concerning public roads, (Laws 1841, 232.) But it is really amendatory of the chapter in the revised statutes entitled "Roads," (Ch 90 § 4.) Hence the section actually referred to here is § 12 in the revised statutes, and § 12 in this chapter, being word for word the same as § 4 of the act of 1841.]

*Laws 1849, 152. 12 Feb. § 1. P. 1275. 27. RESIDENT ROAD TAX.]* The clerk of the county court shall not include in the lists required to be made out for the supervisors of roads, any road tax on lands or town lots which have not been listed by residents of the county; but shall charge the same, together with the revenue and other special tax, on the tax list made out for the collector.

*Ibid. § 2. 28. COLLECTED BY THE COLLECTOR.]* The collector shall collect the road tax aforesaid, and pay the same into the county treasury, to be disbursed and paid over to the supervisors of the several road districts, in proportion to the amount of property as

## IV. Of Road Labor and Road Tax.

sessed in said districts upon which said tax was levied. The supervisors of the several road districts shall disburse the amount of tax received by them as aforesaid, and make return in the same manner as other road tax collected by them.

*Ibid.* § 4. **29.]** The clerk shall make out the list of resident road tax from the assessment of the previous year, which shall be delivered to each supervisor, on or before the first day of May in each year.

*R. S. § 25, 485. P. 1046. S. 565.* **30. PERFORMANCE OF ROAD LABOR.]** It shall be the duty of each supervisor to call on all able-bodied male persons over 21 and under 50 years of age, in his district, to perform the number of days' labor due for the year, giving such person at least three days' notice of the time when, and place where the work is required, and stating what description of tools to bring; which notice shall be given by the supervisor in person, verbally, or by a written or printed notice, or by some person appointed by him to warn in the hands; in which latter case the notice shall be written or printed, and signed by the supervisor. The supervisor shall observe the hour appointed to meet, that each individual do appear at the time, with the tool directed to be brought; and when on the road, that each person shall work industriously and diligently, doing at least eight hours' faithful labor in each day, at such work and in such manner as shall be directed by the supervisor. Any person neglecting or failing to attend and do the work due on the roads, after being notified as above stated, by himself, or a substitute equally able as himself, shall pay for each day \$1. Should any person be idle, not work diligently, be turbulent, interrupt other hands or disobey the supervisors, power is hereby given, and it shall be the duty of the supervisor to discharge said hand from the road; and for each day's labor which may then be due from such person, he shall be bound to pay \$1.50.

§ 26. Duty of the supervisor to request payment in money or labor at not more than \$1. per day; changed by the following section:

*R. S. § 4, 592. P. 1051. S. 571.* **31. LABOR IN PERSON OR BY SUBSTITUTE.]** The tax list being placed in the hands of the supervisor, he shall notify each person residing in said supervisor's district, of the amount due, and that the same may be discharged in labor on the road, and shall thereupon request payment in money or labor, first notifying such person of the time and place to attend and work the same out at the rate of 75 cents per day, bringing with him such tools as may be directed by the supervisor; the labor to be performed by the principal or a substitute equally able, working at least eight hours each day; and if such person shall spend the time in idleness, be turbulent, or disobey the supervisor, he shall be discharged from the road, and the balance due shall be collected, with 25 per cent. advance: *Provided*, all money collected by supervisors for road purposes, shall be disbursed on some road within their district.

*Laws 1847, 112. 17 Feb. § 10. P. 1056. S. 573.* **32. SUBSTITUTES FOR NON-RESIDENTS.]** Any person owning lands in an adjoining or detached county, in the state, other than the one in which he resides, may work out his road tax in person, or by an able and good substitute, under any one supervisor in such county where the lands lie, voluntarily attending when a supervisor shall be working on roads; which privilege is hereby granted to non-residents to work out their road taxes under any supervisor in the county where the lands are situated, and the supervisor shall give to such person a receipt for the same, and shall make return thereof to the county *commissioners'* court, on settlement of his accounts: *Provided*, that it shall not be incumbent on any supervisor to notify such person out of his district.

*Laws 1847, 112. 17 Feb. § 8. P. 1055. S. 573.* **33. ROAD TAX AND ROAD LABOR IN TOWNS AND CITIES.]** Where any city or town has or may become incorporated under a special law, or under a general law, authorizing citizens to become incorporated, no requisition in labor or money from the citizens thereof, on property within said corporation, shall be required to improve roads in the country different from the grant in the charter, but they shall be required to work and pay a tax to improve the streets and roads, and such improvements as shall be specified in the charter, or within the limits of the incorporation, so long as the charter or incorporation shall remain in full force. In all towns and villages not incorporated, the citizens thereof shall contribute in labor, and by a tax, when assessed by the county *commissioners'* court of the county, in improving the streets of the town, or village, and the public roads of the road district, including the same under the supervisor.

*Laws, 1847, 74, 167. 1 Mar. § 1. P. 178. S. 199.* **34. CERTAIN TAXES RELEASED.]**

## V. Duties of Road Supervisors.

In all cases where county *commissioners'* courts have assessed a road tax operating upon property situated in incorporated towns, the inhabitants of which are required to keep the roads passing through and from their said towns in repair, said tax \* \* is hereby released.

*Ibid.* § 2. **35.**] In assessing the road tax by county *commissioners'* courts, property situated within the limits of incorporated towns, the inhabitants of which are required to keep the roads in repair, as mentioned in the second [first] section of this act, shall be excluded from the operation of the order assessing said tax.

## V. DUTIES OF ROAD SUPERVISORS.

*R. S.* § 27, 486. *P.* 1046. *S.* 566. **36. DUTY OF THE SUPERVISOR TO BRING SUITS.]**

It shall be the duty of supervisors to sue in the name of the county commissioners, in their official capacity, for all labor and taxes which shall be due from each person residing in their respective districts, and remain unpaid after notice shall have been given, and a failure to settle the same, as provided in the foregoing sections; and having collected the same, shall, without delay, disburse the money to the best advantage, on public roads in the district to which such labor or tax properly belongs. In all cases the supervisor shall be a competent witness in suits brought as above stated; and an appeal may be taken to the circuit court by either party, as in other cases of appeal from justices of the peace.

*R. S.* § 39, 489. *P.* 1050. *S.* 570. **37. SUIT MAY BE BEFORE JUSTICE.]** Supervisors are hereby authorized to bring suits before any justice of the peace of the county, to recover any and all sums due for road labor, road tax, fines and forfeitures imposed by this chapter, which are intended to come into the hands of such supervisors for road purposes, and to collect, disburse and account for the same; suing in the name of the county commissioners, in their official capacity.

*Laws* 1852, 176. 22 June § 2. *P.* 1057. *S.* 575. **38. IN THE NAME OF THE COUNTY — INFORMALITIES.]** All suits, actions and proceedings necessary to be had upon any right or cause of action, for failures to perform road labor or pay road taxes, or to enforce any contract or promise in reference to the opening or repairing public roads, shall be had in the corporate name of the county wherein the right of action accrued: *Provided*, that no suit shall be dismissed on account of informality in the name of the plaintiff; but the court may on application, permit the record to be so amended as to place the name of the proper plaintiff on the record.

*R. S.* § 28, 486. *P.* 1047. *S.* 566. **39. DELINQUENT LIST TO BE RETURNED.]** Every supervisor shall endeavor to collect all road and labor tax, and close the work by the 25th of December, annually. And they are absolutely bound to return to the clerk of the county *commissioners'* court the tax list, by the 1st of January, marking carefully and truly the amount paid on said road tax list, how much in work, and the amount in money, by each individual named, and shall give a receipt to each individual if requested. The clerk and collector shall give credit on the general tax list, to each person, for the amount paid, and the balance due shall be collected by the proper officer out of the goods and chattels, lands and tenements of the person owing, in the same manner as other revenue for the state and county shall be collected. All moneys collected as above, after deducting the per cent. for collecting and costs paid out, to be allowed by the *commissioners'* court, shall be set apart in the treasury of the county as a road fund, to be disbursed by order of the *commissioners'* court, in the erection of bridges and improvement of such public roads in the county as they may deem most advantageous to the public; and in no case shall the court appropriate or divert any portion of said road fund to any other purpose than the construction of roads and road purposes: *Provided always*, that fines and forfeitures incurred under the provisions of this chapter, shall be applied to the improvement of the public roads within the bounds of such road district wherein such fines and penalties may have been incurred.

*Ibid.* § 35. *Laws* 1865, 111. 16 Feb. § 2. **40. SUPERVISOR'S REPORT OF WORK DONE.]** At the December term of the *commissioners'* court, annually, each supervisor shall make a report, showing the whole number of days' work that has been done in his district during the year, by whom done, the amount of money by him received, from whom, for road tax or otherwise due on roads, the amount paid out by him in constructing roads,

## V. Duties of Road Supervisors.

with the vouchers accompanying; at which term he shall make a settlement with the court, and if a balance should appear in his hands, the same shall be disbursed in the district, or added to the general road fund, as the court shall order. Supervisors may appoint one or more persons to warn in the hands, and make an allowance out of the labor or tax due from such person. No allowance shall be made to any supervisor for services out of the county treasury, except for sums required by § 15 of this chapter; but he shall be wholly exempt from doing military duty in time of peace, and from serving on grand and petit juries while acting as supervisor; and shall have power and authority to appoint one or more deputies, suitable persons to oversee laborers, and direct the work, the supervisor being responsible.

*R. S. § 37, 488. P. 1049. S. 568.* **41. MATERIALS FOR BRIDGE OR CAUSEWAY.** Consult also Ch. 92 and Ch. 103d Art. 17 § 52.] The supervisor, for the purpose of building or repairing any bridge or causeway, by order of the county *commissioners' court*, is hereby authorized to enter upon the nearest unimproved land, and to cut and haul away timber, or to quarry and haul rock, gravel, sand or earth, which may be necessary for that purpose: *Provided*, he shall not take away timber already cut, or any rock or gravel already quarried for another purpose, without leave from the owner or his agent: *Provided also*, that unless the owner, or his or her agent shall first consent to the cutting of timber or the quarrying of stone, or the taking of gravel, sand or earth, the supervisor shall call upon two discreet householders to value the materials about to be used. If the owner of the materials, or his agent, shall see proper, he may choose two other discreet householders to act with such as may be chosen by the supervisor, and if they cannot agree, the four shall choose a fifth, as umpire; and the five, or a majority of them, shall make out their award, under their hands and seals, and transmit it to the clerk of the county *commissioners' court*, who shall file and preserve the same; which award shall be final and conclusive of the amount of damages sustained by such person; and the amount so awarded shall be paid to the owner of the materials, or his or her agent, out of the county treasury; and the supervisor shall be authorized and warranted in taking such materials as soon as the award shall be made.

*Laws 1847, 112. 17 Feb. § 9. P. 1056. S. 573.* **42. CONSTRUCTION OF BRIDGES.]** In constructing bridges, where they are not covered, the supervisor shall secure the same, by placing on the margins of the plank heavy hewed timber, or by erecting substantial hand-rails, so as to prevent damage by wagons running off, or otherwise.

*R. S. § 29, 486. P. 1047. S. 567.* **43. SUPERVISORS TO OBTAIN LABOR AND MATERIALS.]** Supervisors are hereby authorized to hire teams to do the necessary hauling, plowing and scraping, to contract for materials for building bridges, causeways, erecting guide-boards, for making and furnishing road scrapers, and repairing roads in discharge of labor and road tax due, and so far as funds shall come into possession, procuring said teams, materials, implements and work, on the best possible terms.

*Ibid. § 40.* **44. PENALTIES AGAINST SUPERVISORS.]** Any supervisor who neglects to keep the roads in his district in good repair, agreeably to the provisions of this chapter, or fails to perform any other duty herein required, shall be liable to indictment, and on conviction thereof, shall be fined in a sum not less than \$5., and not exceeding \$50., to be expended on some road within the district of said supervisor.

*Ibid. § 41.* **45. DUTY OF THE COUNTY CLERK.]** The clerk of the *commissioners' court* in each county shall, at each term of the circuit court, make out and furnish the grand jury with a list of the names of all supervisors in the county, with the date at which they were appointed.

*Laws 1847, 112. 17 Feb. § 5. P. 1055. S. 573.* **46. CARE OF TOOLS.]** It shall be the duty of the supervisor to take good care of plows, road-scrapers, and other implements, belonging to the county, in their charge, not to lend the same, unless to the supervisor to aid him in constructing public roads. Any person who shall violate the provisions of this section shall forfeit and pay a fine of not less than \$3., or more than \$10.

*Ibid. § 6.* **47. WORK DONE IN THE SPRING.]** Each and every supervisor shall call out his hands, and do a fair proportion, at least a moiety, of the labor due, in the spring of the year, in putting the roads and bridges in good repair, and grading the same where most needed.

*Laws 1851, 184. 17 Feb. [18 Apr.] § 1. P. 1057. S. 574.* **48. NUMBER OF HANDS.]** So much of the law now in force in relation to public roads, as provides that supervisors

## VII. Locations, Vacations, and Relocations.

shall not work with less than 10 hands at one time, \* \* is hereby repealed, and hereafter supervisors may work with any number of hands which they may deem advisable. — [This refers to a provision in the act of 28 Feb. 1845; *R. S.* 592 § 7.]

*Laws 1867, 160. 9 Mar. § 1.* **49. OF DRAINS FOR ROADS.**] Whenever a public road or highway, shall pass over low or wet lands, and it shall be necessary to drain the same in order to render the said road dry and passable, and the said road cannot readily or conveniently be drained without laying or digging a ditch or ditches over and across the adjacent lands, it shall be lawful for the commissioners of highways, or other officers whose duty it is to cause the said road to be made passable, to enter upon the said adjacent lands and construct the required ditch or ditches over and upon the same; and in case the said officer or officers shall be unable to agree with the owner or owners of such lands as to the amount of damages to be allowed and paid to such owner or owners, the same shall be fixed and ascertained in the manner appointed in § 38 of the [foregoing] chapter to which this is an amendment, and the other acts amendatory thereof, subject to the same right of appeal allowed in other cases.

## VI. FEES OF OFFICERS.

*R. S. § 36, 488. P. 1049. S. 568.* **50. FEES ALLOWED.**] Road viewers shall be allowed \$1., and surveyors \$2. for each and every day necessarily employed; and chain and axe-men, 75 cents per day.

*Ibid. § 42.* **51. FEES OF SHERIFFS AND CLERKS.**] Sheriffs, and clerks of the county commissioners' courts, shall be allowed a fair and reasonable compensation for discharging the duties required of them by this chapter, to be paid out of the county treasury, on the allowance and order of the county commissioners' courts respectively.

*Laws 1851, 184. 17 Feb. [18 Apr.] § 2. P. 1057. S. 574.* **52. FEES OF SUPERVISORS.**] Supervisors shall be allowed the sum of \$1. per day, for each and every day in which they are necessarily employed in the discharge of their duties, over and above the time consumed in working out their own tax. — [Formerly 75 cents per day; *R. S.* 592 § 7.]

*Laws 1867, 159. 7 Mar. [27 Aug.] § 1.* **53. FIXED BY COUNTY COURTS.**] \* \* The county courts in counties not having adopted township organization shall have the sole power of determining the amount that each supervisor shall receive for his services in working the roads in his district, or for other services provided by law, or that may hereafter be made incumbent on said officers, and said allowance shall be made with reference to the work performed.

## VII. LOCATIONS, VACATIONS AND RELOCATIONS.

*R. S. § 17, 483. P. 1043. S. 563.* **54. OPENING OF A NEW ROAD.**] No new road shall be opened by order of the county commissioners' court, unless the same shall be applied for by at least 35 voters, residing within five miles of the road proposed to be laid out or altered, except in counties which shall not have more than 300 voters, when only 15 shall be required. Such applicants shall deposit in the hands of the clerk of the county commissioners' court, a sufficient sum of money to pay the viewing. If their report be in favor of establishing the road, the money so deposited, shall be returned to the persons who deposited the same; but if the report be unfavorable, the expenses of the view shall be paid out of the money so deposited; and every person applying for such new road, shall contribute one day's labor, in addition to the number of days required by this chapter, towards making such road. The clerk of the county commissioners' court shall furnish each supervisor through whose road district such new road shall pass, with a list of the persons who petitioned for the same; and any such petitioners who shall not reside within some district through which such new road shall pass, shall be required to perform the day's labor herein required of him, under the direction of the supervisor of the nearest road district; and for failing to do so, after being duly notified, he shall be fined in the sum of \$1.

## VII. Locations, Vacations and Relocations.

*Laws 1847, 111. 17 Feb. § 3. P. 1058. S. 572.* **55. OF THE PROOF OF NOTICE.]** It shall be the duty of the *commissioners' court*, upon the presentation of a petition for the location or relocation of a road, to inquire into the manner in which the same was gotten up, if signed by individuals through whose lands the same may pass, as far as practicable, and require proof, and be satisfied that the notice required by law of such intended application had been given, in view that the owners of lands which may be damaged shall have notice thereof.

*R. S. § 18, 483. P. 1044. S. 563.* **56. APPOINTMENT OF VIEWERS.]** When a new road shall be applied for, as aforesaid, the county *commissioners' court* shall, if in their opinion the public good and convenience require it, appoint three suitable persons to view the ground proposed for the same; and if, after such view, the viewers shall believe the road applied for to be necessary, taking into consideration the expense of constructing the same, and its utility to the public, they shall proceed to locate and establish the same, on the nearest and most eligible route from point to point given, having due regard to private property; causing the same to be surveyed, designating its course through prairies and improved land, by fixing stakes in the ground, or by plowing two furrows, at the distance apart of the full width of the road, and through the timbered land by marking the trees; and shall make report thereof to the next county *commissioners' court*; but after the view, if they deem such road unnecessary or improper to be made, they shall report their opinion to that effect to the next term of said court.

*Laws 1847, 112. 17 Feb. § 4. P. 1055. S. 572.* **57. DUTY OF VIEWERS.]** Viewers, in locating a road, shall ascertain, as far as practicable, where damages will be claimed, and report the names of the individuals claiming, to the *commissioners' court* at the time of making their report; and it shall be incumbent on the owners of property, by themselves or agents, to inform the court, at the term at which the road-viewers shall report of such, their claims for damages. And no damages shall be allowed, unless claim be made to the court as aforesaid, or to the supervisor, commissioner or superintendent appointed to open the road, as now provided by law. After a road shall be opened, and no claim for damages being set up, the state or county shall not be liable for any damages whatever.

*R. S. § 19, 483. P. 1044. S. 563.* **58. VACATION OF A USELESS ROAD.]** Whenever it shall be represented to the county *commissioners' court*, by a petition of 35 voters, that a public road established by said court, or any part thereof, is useless or burthen-some, the said court, upon a sufficient sum of money being deposited with the clerk to pay the expenses of a review, (such money to be returned, if the road shall be declared useless,) shall appoint three suitable persons to view the same, who shall report to the said court at the next term after such appointment, whether such road be useless and burthen-some, together with their reasons for such opinion; and the county commissioners may then order such road to be vacated, if, in their opinion and discretion, they shall deem such order proper: *Provided*, that no petition praying for the establishment or vacation of a public road shall be received by the said court, unless the said petitioners or some of them, shall have given 20 days' public notice of such application, by a written notice, posted up in the most public place in each road district through which the road or proposed road shall pass, and a like notice, particularizing the route and important points, on the door of the court house, and of the county clerk's office, should it be kept in a separate building.

*Ibid. § 20.* **59. WORKING NEW ROADS.]** Whenever a new road shall be located, the county commissioners shall immediately cause the supervisors of each district through which such road shall pass, to be notified of such location; and it shall be the duty of the said supervisors to make such road within their respective districts, and keep the same in repair, so far as the labor of the persons bound to work on said road shall enable him; and if such labor be insufficient, the county commissioners shall cause the same to be cut out and opened at the expense of the county, whenever, in their opinion, the funds of the county will justify such expense; and after being so opened, the same shall be kept in repair by the supervisor, as in other cases.

*Ibid. § 21.* **60. CART ROADS — HOW LOCATED AND OPENED.]** Any person or persons desirous of having a cart road laid out, for his or their convenience, from the dwelling or plantation of such person or persons to any public road, or from one public road to another, or from one lot of land to another, shall present a petition to the county commis-

## VII. Locations, Vacations and Relocations.

sioners' court of the proper county, setting forth the reasons for desiring such road, and describing the points from and to which said road or cart-way is desired to pass; and the court shall, upon a sufficient sum of money being deposited to pay for viewing such road, appoint three freeholders to view the same: *Provided*, that 20 days' notice shall be given of the intention to present such petition, to each person residing in the county through whose land such cart-way is desired to pass; and also, by posting up a notice thereof on the door of the court house, and clerk's office of the county, if not kept in the court house, for the same period of 20 days; and the viewers, when appointed, shall examine the route proposed for such road, and shall examine any other route which they may deem proper; and if they shall be of opinion that a cart-way is necessary and proper, from and to the points named in the petition, they shall lay out the same in such manner as to produce the least inconvenience to the parties through whose land the same shall pass, and shall make a written report to the court, describing the route of the road, and the numbers of the lots of land through which the same shall pass, and naming the owners thereof, if known; which report shall be examined by the court, and on hearing the objections, if any, and if the court shall be of opinion that the road is necessary and right, an order shall be made establishing the same, not exceeding 30 feet wide: *Provided*, that no such road shall be allowed to pass through any orchard, garden, door or barn-yard: *And provided also*, that if any owner of land shall object to the opening such road, the same shall not be opened by the person or persons desiring the same, until the person or persons objecting shall be paid all the damages to be sustained by the opening thereof; and in case the parties can not agree on the amount of damages, the same shall be ascertained and assessed as hereinafter provided; and the damages being paid on final decision, the person or persons applying therefor, their heirs and assigns, shall have the right to open said road, and shall have the right of way upon the same forever thereafter. — [A section in the township organization acts, containing similar provisions, has been declared unconstitutional; Ch. 103d Art. 17 § 99.]

R. S. § 31, 486. P. 1047. S. 567. **61. OF THE CHANGE OR RELOCATION OF ROADS.**] When any person or persons desire a change or relocation of any state road now located, notice of such intended application shall be given by setting up advertisements, in writing, at least one in each road district through which said road shall pass, and on the court house door, 20 days previous to the sitting of the court to which application shall be made; and on petition of a majority of the qualified voters of each road district through which said road shall pass, and a majority of the voters living immediately in the vicinity of such road, the court shall appoint three viewers to examine and make the necessary relocation; they shall carefully view the road as located, and the ground for the proposed route, and being of opinion that the public good requires an alteration, in view of obtaining a more suitable place to erect a bridge over a stream, wind a hill, avoid a swamp, expensive work, or where the present road greatly damages an individual, and can be varied without material damage to the public; in such cases alterations may be made, and a majority of said viewers being of that opinion, they shall cause a survey and relocation to be made, returning to the *commissioners'* court a plat with the courses and distances of the road as established. But if they consider an alteration not necessary, they shall so report, and the court may confirm and accept the report, or take such further action thereon as to them may seem right. In like manner, any state road now established, which may be considered useless or burthensome, on notice, petition, view and report to that effect, as required in this section in case of an alteration, the same may be annulled and vacated.

*Ibid.* § 32. **62. ON A COUNTY LINE — DEPOSIT REQUIRED.**] When it shall become necessary to have a state or county road now located and established, altered, relocated or vacated at a county line, or a new road laid out, the same being petitioned for, and notice given, as required in the preceding section, the same shall be agreed on by viewers from each county, to be appointed by the counties immediately interested; and no road shall be altered at a county line or elsewhere, unless a majority of the viewers appointed agree on such change or alteration: *Provided*, that no application shall be acted upon or viewers appointed, as contemplated in the preceding sections, unless the petitioners deposit money sufficient to pay the viewers in case an unfavorable report be made, to be refunded should the road be located, altered or vacated, as petitioned for. And the petitioners, in case a new road shall be established, or a change in the location

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of a road, shall contribute one day's work on the same or some other road in the county, as required in § 17 of this chapter. In case of a disagreement in the location or alteration of any road crossing a county line, by the county authorities, either county may appeal to the circuit court, who shall hear and determine the case, grant a review, appoint viewers, and make such order therein as shall seem right in the establishment of the road in dispute.

*R. S. § 5, 592. P. 1051. S. 571.* [63. DEPOSIT IN OTHER CASES.] When any person or persons desire a change or relocation of any state or county road now located, or hereafter to be located, and the whole distance proposed to be changed does not exceed three miles, the petitioners applying for the same shall deposit with the county commissioners' clerk a sum of money sufficient to pay for viewing and surveying said road; and on the return of such report, the clerk shall pay for the same with the money before deposited, whether the report be favorable or unfavorable to the change or relocation.

*Ibid. § 6.* [64. OF REMONSTRANCES.] In all cases where a petition is presented to the county commissioners' court, praying for a change, alteration, location or vacation of a county road, as provided for in the act to which this is an amendment, if there shall be remonstrances presented against granting the same, it shall be the duty of said court to give due consideration both to the petition and remonstrance, and grant or refuse the prayer of such petitioners, as in their discretion shall be just and proper.

*R. S. § 33, 487. P. 1048. S. 568.* [65. SURVEYS AND PLATS.] All roads shall be surveyed, and a plat, with the courses and distances thereof, returned with the report of the viewers to the commissioners' court, which shall be recorded and filed. The commissioners' court, on the return of the report and plat, shall determine and establish on record, the width of the road, making the main leading roads four rods wide, and none less than 30 feet.

*Ibid. § 34.* [66. ROADS TO BE DIRECT — OATH OF VIEWERS.] In the location and alteration of all roads, it shall be the duty of viewers to make the same as direct as the ground and circumstances will allow, particularly the main leading roads. Previous to entering upon their duties, they shall be sworn before some judge of a court, or justice of the peace of the state, that they will faithfully, impartially, and to the best of their judgment, discharge the duties incumbent on them as road viewers under the law and appointment of the court.

*Laws 1851, 176. 17 Feb. [18 Apr.]. § 1. P. 1056. S. 574.* [67. SURVEYORS MAY ACT AS VIEWERS.] County surveyors may act as road viewers in their respective counties, without further qualification, and may administer the proper oath of office to other road viewers who may be associated with him or otherwise. Road viewers may assess damages incident to the laying out of roads, and report their assessment to the county courts of the counties in which such roads may be located.

*R. S. § 38, 488. P. 1049. S. 569.* [68. OF THE ASSESSMENT OF DAMAGES.] In all cases where a public road shall have been heretofore authorized by law to be laid out or constructed in this state, either by state or county authority, and the same is required to pass over the land belonging to any company, corporation or individual, and the owner or owners shall object thereto, and cannot agree with the commissioner, superintendent or supervisor, authorized to construct the same, on the amount of damage which such owner or owners may claim, it shall be lawful for such commissioner, superintendent or supervisor to apply to *some justice of the peace* [Repealed by § 70] of the county where the same may occur, who shall cause three householders to appear before him, and the householders so summoned, after being sworn faithfully and impartially to examine the ground which shall be pointed out to them by the commissioner, superintendent or supervisor, shall assess the damages which they shall believe such owner or owners will sustain, over and above the additional value which such lands will derive from the construction of such road, and make two written reports, signed by at least a majority of them; one of which they shall give to the commissioner, superintendent or supervisor requesting the view and the other to the opposite party; which award or assessment of damages, shall, as well where the amount shall be agreed upon by the parties, without applying to a justice of the peace, be laid before the county commissioners' court for consideration, who shall examine the matter, and should they decide the amount of damages is not unreasonable, or more than should be given, and that the opening and improving the road is called for by the public interest, and the finances of the county will justify, they, in that case, will

## VIII. Jurisdiction over Roads.

approve and accept the award, and order the money to be paid ; and the same being paid, the commissioner, superintendent or supervisor shall proceed to open and construct said road ; which proceedings being recorded, in the *commissioners' court*, the right of way shall be thereby secured : *Provided*, that the corporation, company, owner or owners of the land shall have the right to appeal from the decision of the *commissioners' court* to the circuit court, and the case shall be acted upon in such manner as the court may determine, with a view to justice, and the establishment of the road, who shall make such order therein as may seem right and just, which decision shall be final. The provisions of this section shall extend to a cart-way, as contemplated in § 21 of this chapter ; viewers appointed to be sworn, report to be made, the damages to be paid by the individuals desiring the cart-way, to be confirmed by the *commissioners' court* ; and either party may appeal to the circuit court, where the case being fully heard, such judgment or order shall be made thereon as the court shall deem right, and which shall be a final decision.

*Laws 1855, 172. 15 Feb. § 1. P. 1058. S. 575.* **69. COMMISSIONERS TO ASSESS DAMAGES — How APPOINTED.]** In all cases, when it shall become necessary to appoint commissioners to assess the damages caused by the laying out or construction of any state or county road over the lands belonging to any company, corporation or individual, it shall be the duty of the judges of the county court, when application shall be made to them for that purpose, to appoint three householders, who shall assess the damages in the same manner as is provided for by the act to which this is an amendment.

*Ibid. § 2. 70. JUSTICES NOT TO APPOINT.]* So much of § 38 of Chap. 93 of the revised statutes as authorizes justices of the peace to appoint said commissioners to assess said damages, \* \* is hereby repealed.

## VIII. JURISDICTION OVER ROADS.

*R. S. § 30, 486. P. 1047. S. 567.* **71. COUNTY COMMISSIONERS' COURTS.]** All power, jurisdiction and control is hereby given to the county *commissioners' court* of the several counties, of and concerning state roads, roads located directly by the state ; and the same shall be opened, improved and kept in repair as other roads in the counties, subject to alteration, change and relocation, as hereinafter pointed out.

*Laws 1851, 179. 17 Feb. § 19. P. 1056. S. 574.* **72. THE COUNTY COURTS.]** The county courts of the several counties of this state shall have the supervision and control of all roads and public highways within their respective counties, whether such county be organized under or by virtue of the "township organization law" or otherwise, and shall be governed by the several laws of this state relating to roads and public highways previous and at the time of such organization, and all laws and parts of laws coming within the purview of this act, or inconsistent therewith \* \* are hereby repealed.

*Laws 1853, 176. 12 Feb. § 1. P. 1057. S. 575.* **73. REPEALING CLAUSE.** So much of the \* \* foregoing section] as gives to the county court supervision and control of all roads and public highways in counties which have adopted township organization \* \* is hereby repealed.

*Laws 1859, 194. 18 Feb. § 1.* **74. BOARD OF SUPERVISORS.]** The board of supervisors in all counties in this state where township organization has been adopted shall have the entire control of all the state roads in their respective counties, and have full power to relocate or vacate them, as in their discretion they may determine.

*Ibid. § 2. 75.]* In all the counties in this state where township organization has not been adopted, all the powers heretofore in this act conferred on the board of supervisors, \* \* are hereby conferred upon the various county courts of this state.

*Laws 1869, 374. 25 Mar. § 1.* **76. NOTICES TO RAILROADS.]** In addition to the notices now required by law in proceedings for locating, laying out and opening of public roads similar notices shall be served upon any railroad company across or alongside of whose railroad it may be proposed to locate a public road. *Provided*, this act shall not apply to the proceedings for opening streets in towns and cities.

*Ibid. § 2. 77. SERVICE THEREOF.]* The notices as required by this act, shall be

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served upon the station agent of any such railroad company, nearest to the proposed location of such projected public road.

*Laws 1869, 374. 25 Mar. § 1. 78. PLANTING SHADE TREES.]* It shall be lawful for owners or occupants of lands, bordering upon any public road in this state, to plant shade and ornamental trees along and in such road, at a distance not exceeding one tenth of the legal width of the road, from its margin.

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#### NOTE.

The preceding pages contain the Road Law for counties not under Township Organization, as it was immediately prior to the adoption of the Constitution of 1870, and in form precisely as it appears in the first Volume of the STATUTES. The sections which are *in terms* repealed by later legislation, are marked in the margin. Much that is not marked is also repealed by the act of 1872; see § 193. But that repeal is of "laws heretofore existing that may in any way conflict" with the new act. How far the old laws "conflict" with the new is an open question, and we do not attempt to decide it.

The following pages present the Road Law of 1872, in form precisely as it appears in the second Volume of the STATUTES. It seems to have been intended for all the counties whether under Township Organization or not.

## CHAPTER 93.

### ROADS AND BRIDGES.

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*An act in regard to roads and bridges. Approved 10 April 1872. In force 15 August 1872.*

**79. PUBLIC HIGHWAYS DEFINED.]** § 1. All roads within this state, which have been laid out in pursuance of any law of this state or of the late territory of Illinois, and which have not been vacated in pursuance of law, or used for 10 years, and roads dedicated to public use, and recognized by the corporate authorities of any town or county, are hereby declared to be public highways.

**80. TURN TO THE RIGHT.]** § 2. Whenever any persons travelling with any carriages shall meet on any turnpike road or public highway in this state, the persons so meeting shall seasonably turn their carriages to the right of the center of the road, so as to permit each carriage to pass without interfering or interrupting, under the penalty of \$5. for every neglect or offense, to be recovered by the party injured: *Provided*, this section shall not be construed to apply to any case where it is impracticable, from the nature of the ground, to turn to the right of the beaten track.

**81. DRUNKEN DRIVER.]** § 3. No person owning any carriage, running or traveling upon any road in this state, for the conveyance of passengers, shall employ or continue in employment any person to drive such carriage who is addicted to drunkenness or the excessive use of malt, vinous or spirituous liquors.

**82. NOTICE AND DISCHARGE.]** § 4. If any driver, while actually employed in driving any such carriage, shall be guilty of intoxication to such a degree as to endanger the safety of the passengers in the carriage, it shall be the duty of the owner of such carriage, on receiving written notice of the fact, signed by any one of said passengers and certified by him on oath, forthwith to discharge such driver from his employment; and every such owner who shall retain or have in his employ, within three months after the receipt of such notice, any driver who shall have been so intoxicated, shall forfeit at the rate of \$5. per day for the time during which he shall keep any such driver in his employment, after receiving such notice.

**83. NO RUNNING HORSES.]** § 5. No person driving any carriage upon any turnpike road or public highway in this state, with or without passengers therein, shall run his horses or carriage, or permit the same to run upon any occasion, or for any purpose whatever; and every person who shall offend against the provisions of this section shall be fined not exceeding \$100.

**84. TEAM TO BE FASTENED.]** § 6. It shall not be lawful for the driver of any carriage, used for the purpose of conveying passengers for hire, to leave the team attached thereto, while passengers remain therein, without first making such team fast with sufficient halter, rope, or chain, or by placing the lines in the hands of some other person so as to prevent their running; and if any such driver shall offend against the provisions of this section, he shall forfeit the sum of \$20., to be recovered before a justice of the peace.

**85. INJURIES AND DAMAGES.]** § 7. The owner of every carriage running upon any turnpike road or public highway, for the conveyance of passengers, shall be liable, jointly and severally, to the party injured, in all cases, for all injuries and damages done by any person in the employment of such owners as a driver, while driving such carriage, to any person or to the property of any person; and whenever the act occasioning such injury or damage be wilful, negligent or otherwise, in the same manner as such driver would be liable.

**86. MEANING OF "CARRIAGE."]** § 8. The term "Carriage," as used in this act, shall be construed to include stage coaches, wagons, carts, sleighs, sleds, and every other carriage or vehicle used for the transportation of passengers and goods, or either of them.

**87. CITY ORDINANCES.]** § 9. Nothing contained in this act shall interfere with or affect any law concerning hackney coaches or carriages in any of the cities or incorporated villages or towns of this state, nor interfere with nor affect the laws or ordinances of any such city or incorporated village or town for the licensing or regulating such coaches or carriages.

*Defacing Guide Boards - - - Crossing for Animals.*

**88. DEFACING GUIDE BOARD.]** § 10. For destroying or defacing any guide board, post or mile stone, or any notice or direction put up on any bridge or otherwise, the offender shall forfeit a sum not less than \$3. nor more than \$50.

**89. OBSTRUCTIONS: ENCROACHMENTS.]** § 11. If any person shall injure or obstruct a public road by falling a tree or trees in, upon or across the same, or by placing or leaving any other obstruction thereon, or by encroaching upon the same with any fence, or by plowing, or digging any ditch or other opening thereon, or by turning a current of water so as to saturate or wash the same, or shall leave the cuttings of any hedge thereupon, for more than five days, shall forfeit for every such offense a sum not exceeding \$10., and an additional sum of not exceeding \$3. per day for every day he shall suffer such obstruction to remain after he has been ordered to remove the same by any of the commissioners of highways or any member of the county board:

**90. CERTAIN EXCEPTIONS.]** *Provided*, this section shall not apply to any person who shall lawfully fall any tree for use, and will immediately remove the same out of the road, nor to any person through whose land a public road may pass, who shall desire to drain his land, and shall give due notice to the commissioners of such intention: *And provided also*, that any commissioners or overseers of highways, after having given reasonable notice to the owners of the obstruction, or person so obstructing such road, may remove any such fence or other obstruction, and recover the necessary cost of such removal from such owner or other person obstructing such road aforesaid.

**91. ABUSE OF BRIDGE.]** § 12. If any person shall ride, lead or drive any wagon, carriage, dray, cart or other vehicle or conveyance, or any horse, mare, mule or ox, or any other animal, faster than a walk, or shall intentionally drive more than 30 head of cattle, mules or horses at a time, over, on or across any bridge on a public road, upon which the commissioners of highways have erected the proper notice, according to the provisions of this act, within the limits of this state, he shall forfeit and pay for each offense the sum of \$5.

**92. INJURY TO BRIDGE.]** § 13. If any person shall purposely destroy or injure any public bridge, culvert or causeway, or remove any of the timber or plank thereof, or obstruct the same, he shall forfeit a sum not less than \$3., nor more than \$100., and shall be liable for all damages occasioned thereby, and all necessary costs of rebuilding or repairing the same.

**93. JUSTICES' JURISDICTION.]** § 14. Justices of the peace shall have jurisdiction in all cases arising under this act, where the penalty does not exceed their jurisdiction.

**94. SUITS FOR PENALTIES.]** § 15. All suits for the recovery of any penalty under this act shall be brought in the name of the people of the state of Illinois, upon the complaint of any person.

**95. DISPOSITION OF FINES.]** § 16. All fines recovered under the provisions of this act, unless otherwise hereinafter provided, shall be paid over to the commissioners of highways of the town or road district where the offense is committed, to be expended upon the roads and bridges in the town or road district.

**96. SHADE TREES: HEDGES.]** § 17. It shall be lawful for the owners or occupants of land bordering upon any public road, to plant shade and ornamental trees along and in such road, at a distance not exceeding one-tenth of the legal width of the road from its margin; and also to erect and maintain a fence, so long as shall be actually necessary for the purpose of raising a hedge on said margin, a distance of four feet from and within said marginal line or lines.

**97. CROSSING FOR ANIMALS.]** § 18. Any person owning, using or occupying lands on both sides of any public highway, shall be entitled to the privilege of making a crossing under said highway for the purpose of letting his cattle and other domestic animals cross said road: *Provided*, said person shall erect, at his own expense, a good and substantial bridge, with secure railing on each side thereof, and build an embankment of easy grade, not to exceed a rise of one foot in ten on either side of said bridge; said bridge not to be less than 16 feet wide, and to be approved by the commissioners of highways of the town or road district in which the bridge is built, and the same to be kept constantly in good repair by the owner or occupant of said land, subject to their direction.

**98. ADDITIONAL COST ONLY.]** *And provided further*, that in case such crossing is made on any water way or natural channel for water, and where a culvert or bridge is maintained or required for road purposes, said owner or occupant shall not be required to pay

*Fencing at a Bridge - - - Commissioners Elected.*

for or construct any more of said crossing than the additional cost of such crossing, over and above the necessary cost of a suitable culvert or bridge for road purposes at such place.

**99. FENCING AT A BRIDGE.]** And where any bridge on a public road is constructed over a stream or body of water, where the depth or current of water or the nature of the bank or banks of such stream or body of water is such as to render a fence on the marginal line of the public road impracticable or very expensive to construct and keep in repair, the owner of the land bordering on the public road shall have the right to connect the road fence on either or both banks of the stream or body of water, to said bridge or any pier or abutment thereof, or to any embankment or timber approach to said bridge: *Provided*, that no necessary ford across said stream or body of water shall be permanently obstructed thereby: *And provided further*, that any such connecting fence shall be constructed by the consent and under the direction of the commissioners of highways of the town or road district in which the bridge may be located.

**100. VACATION OF STREET.<sup>1]</sup>]** § 19. The county board of any county in this state, upon the petition of the owner or owners of the adjoining property, shall have power to vacate any street or alley, or part thereof, in any unincorporated town or village, or addition thereto, within such county. No such vacation shall take effect until a copy of the order therefor, certified by the county clerk, shall be filed for record and recorded in the recorder's office of the county in which the street or alley is located; the cost of such vacation and record shall be paid by the petitioners.

**101. NOTICE OF PETITION.]** § 20. Before the county board shall act upon such petition, the petitioners shall give notice of the time and place of presenting the petition, by posting notices in three of the most public places in the town, road district or village where such street or alley is situated, four weeks previous to the time of presenting the petition, and give evidence to the county board of such posting by the affidavit of the person posting the same.

**102. TITLE TO STREET VACATED.]** § 21. On the vacation of any street, alley or road, the title to the same shall vest in the owners of the adjoining lands; the owners on either side taking to the center of the street, alley or road vacated: *Provided*, that in case such street, alley or road was taken from the lands on either side thereof, in different proportions, the same shall vest in the owners of the adjoining lands in the same proportion in which the same was so taken.

**103. ROAD DISTRICTS DEFINED.]** § 22. In counties not under township organization each congressional township or fractional township which is or may hereafter be established a township for school purposes and for the election of the trustees of schools, shall be a district for road purposes: *Provided*, that in cases where the county line between adjoining counties divides a congressional township, and one county is and the other is not under township organization, that part of the congressional township so divided, lying within the county not under township organization, may be by the county board of said county attached to some adjoining congressional township (or fractional township) of said county, for the purposes of this act.

**104. COMMISSIONERS APPOINTED.]** § 23. The county board in counties not under township organization shall, on or before the 20th day of August next, appoint three commissioners of highways, who shall be residents of the road district for which they shall be appointed, for each road district in their respective counties as designated in this act, who shall hold their office until their successors shall be elected and qualified according to the provisions of this act.

**105. AFTERWARDS ELECTED.]** § 24. In counties not under township organization, there shall be elected in each road district, in A. D. 1873, at the same time and place of holding the election for trustees of schools in such congressional township, three commissioners of highways, one of whom shall hold his office for one year, one for two years, and one for three years, to be determined by lot at their first meeting after their election, and entered upon their records; and in each year thereafter, at the same time and place of holding the election for school trustees, one commissioner of highways shall be elected for the term of three years, and until his successor is elected and qualified. The election shall be conducted by the same judges that act as such at the election of school trustees.

**106. ELECTED IN TOWNS.]** § 25. In towns under township organization there shall

<sup>1</sup> See also Vol. 1, 103 §§ 46 to 56, for several other acts on this subject.

*Qualifications of Commissioners - - - General Duties.*

be elected at the annual town meeting in each year, as heretofore, one commissioner of highways, who shall hold his office for the term of three years, and until his successor is elected and qualified.

**107. THEIR QUALIFICATIONS.]** § 26. No person shall be elected or appointed to the office of commissioner of highways unless he shall be an elector, and have resided in the town or district one year next preceding his election. And no commissioner of highways shall be at the same time one of the town board of auditors or in any such capacity audit or assist in auditing any account or bill in which he is or has been directly or indirectly interested.

**108. THE OFFICIAL OATH.]** § 27. Every person elected to the office of commissioner of highways, before he enters upon the duties of his office, and within 10 days after he shall be notified of his election, shall take and subscribe, before some justice of the peace, the official oath or affirmation prescribed by the constitution, which in counties not under township organization shall be filed with the county clerk, and in counties under township organization with the town clerk.

**109. FILLING VACANCIES.]** § 28. Vacancies in the office of commissioner of highways shall be filled by election: *Provided*, that a vacancy shall be filled by the remaining commissioners until the next election of commissioners after the vacancy shall occur.

**110. CONTRACTS AND SUITS.]** § 29. The commissioners of highways shall have power to enter into contracts in all matters within their jurisdiction, and in counties not under township organization may sue and be sued; in counties under township organization all suits concerning highways shall be in the name of the town, except as otherwise provided by law.

**111. CLERK OF THE BOARD.]** § 30. At the first meeting of the commissioners of highways, which shall be within 10 days after they shall have been elected and qualified, they shall proceed to choose one of their number clerk, whose duty shall be to keep a record of all proceedings of said board of commissioners, and perform such other duties as pertain to his office.

**112. THEIR TREASURER.]** § 31. They shall, at the same time, choose one of their number treasurer, who shall receive and have charge of all moneys raised in the town or road district for the support and maintenance of roads and bridges. He shall hold such moneys at all times subject to the order of the commissioners of highways, and shall pay them over upon their order, or on the order of a majority of said commissioners, and not otherwise.

**113. HIS OFFICIAL BOND.]** He shall execute bond in double the amount that will probably come into his hands during the year, by virtue of his office, payable to the people of the state of Illinois, for the use of such town or road district, with sufficient security, to be fixed and approved by the county clerk in counties not under township organization, and by the supervisor of the township in counties under township organization, conditioned for the faithful discharge of his duties as such treasurer, and that he will honestly and faithfully account for and pay over, upon the order of the commissioners of highways, all moneys that shall come into his hands by virtue of his said office. Said treasurer shall, for his services as treasurer, be allowed to retain two per centum of all moneys that he shall receive and pay out, except such moneys as may be paid over by him to his successor in office.

**114. THEIR GENERAL DUTIES.]** § 32. The commissioners of highways, in their several towns and road districts, shall have the care and superintendence of highways and bridges therein, and it shall be their duty: 1. To repair roads and bridges in their respective towns and road districts, and to cause the building of bridges therein, when the public interest or necessity requires it. 2. To lay out and establish roads, to regulate the public roads therein, and to alter or vacate such roads as they, or a majority of them, shall deem proper, as hereinafter provided. 3. To cause such roads used as highways as have been laid out or dedicated, but not sufficiently described, and such as have been used and recognized as public roads for twenty years but not recorded, to be ascertained, described and entered of record in the office of the town clerk, or in the office of the county clerk in counties not under township organization, and to cause to be re-surveyed, platted and entered of record all roads in their respective towns or road districts, where the records of the surveys and plats of the same have been or may hereafter be lost or destroyed; and copies of all such re-surveys, plats and records hereby authorized to be made under this section, duly certified by the town or county clerk, as the case may be, shall be received in evidence, and have the same force and effect, as the original surveys, plats and records. 4. To cause all highways, and all

*Accounts of Commissioners - - - Copy of Account.*

bridges over streams on highways, to be kept in repair, and to see that persons working or repairing the highways leave undisturbed all stones or other monuments marking sectional and other corners, which may be in the public roads worked or repaired by them. 5. To take possession of and keep all scrapers, plows, and other tools belonging to their town and road districts, wherever the same may be found, and not allow the same to go to waste, and not to lend the same, except to persons employed by them to work on the roads by contract or otherwise. 6. To purchase for use upon highways such necessary tools, implements and machinery as they may think proper. 7. To collect all fines and commutation money. 8. To cause to be erected and kept in repair, at the forks or crossing place of the most important public roads, a post and guide boards, with plain inscriptions thereon in letters and figures, giving directions and distances to the most noted places to which such road may lead; to prevent thistles, burdock, cockle-burs, mustard, yellow-dock, Indian mallow, jimson weed (*Stramonium durata* [*datura*]) from seeding, and to extirpate the same, so far as practicable, and to prevent all rank growth of vegetation in the public highway, so far as the same may obstruct public travel; and the said highway commissioners may, in their discretion, sink and construct wells, with a suitable pump or other suitable fixture, and a water trough attached thereto, not exceeding five in any district or town, and keep the same in repair, for public use for watering teams, at the intersections of the most important roads in their towns or road districts; and they may also adopt any other suitable and convenient mode of supplying water in troughs conveniently situated on the public highways for public use, at other points than at such intersections; and the cost of such improvements shall be paid out of the road and bridge funds of such town or road district. 9. To cause boards to be placed upon the bridges of more than 50 feet span, across the principal streams in their respective towns and road districts. Said boards shall be elevated, so as to be easily seen by travellers, and on each side of said board shall be printed, in capital letters, the words, "Five dollars fine for leading or driving any beast faster than a walk, or driving more than 30 head of cattle, mules or horses at a time, on or across this bridge." 10. To remove fallen timber or any other obstruction from, and repair injuries to, roads and bridges, caused by any person, and to prosecute for and recover the cost thereof, in all cases where any person shall be liable therefor. 11. To assess and collect the poll tax, as hereinafter provided. 12. To assess, annually, upon the real and personal property in their respective towns and road districts, as hereinafter provided, a tax not exceeding 40 cents on \$100., assessed valuation, by the last county assessment: *Provided*, that the tax on property lying within any incorporated village, town or city, in which the streets and alleys are under the care of the corporation, shall be paid over to the treasurer of such village, town or city, to be appropriated to the improvement of roads, streets and bridges where such tax is collected, as the corporate authorities may desire it.

**115. THEIR ANNUAL ACCOUNTS.]** § 33. Commissioners of highways, in counties under township organization, shall render to the board of town auditors, at their annual meeting for auditing the accounts of town officers, and in counties not under township organization to the county board, an account in writing, stating: 1. The amount of real estate and personal property tax received by them. 2. The sums received by them on account of poll tax. 3. All sums received by them for fines and commutations. 4. The amount received by them from all other sources. 5. The amount expended by them for all purposes, specifying by items the date, purpose and amount of each expenditure, and to whom paid. 6. The names of all persons assessed for poll tax. 7. The names of all persons who have paid or worked out their poll tax. 8. The names of all persons who have been fined, and the sums which they have been fined, and what fines remain unpaid.

**116. VERIFIED BY OATH.]** § 34. The board of auditors or county board may require such accounts to be verified by the oath or affirmation of the commissioners.

**117. APPROVED OR REJECTED.]** § 35. The accounts of the commissioners of highways, approved by the auditors or county board, shall be so certified; those rejected shall be so marked.

**118. DELIVERED TO CLERK.]** § 36. The accounts so audited, including those rejected, shall be delivered to the town or county clerk, as the case may be, to be kept by him on file for the inspection of any of the inhabitants of the respective towns and road districts.

**119. COPY OF ACCOUNT.]** § 37. In counties not under township organization, a copy of the accounts so audited shall be retained by the clerk of the highway commissioners, and produced by him, at the next annual meeting in the road district, and there read by one

*Improvements Estimated - - - Suit for Poll Tax.*

of the commissioners of highways for the information of the inhabitants of said road district.

**120. IMPROVEMENTS ESTIMATED.]** § 38. At the annual town or road district meeting, the commissioners shall make a written statement of the improvements necessary to be made on the roads and bridges in their town or road district, during the next ensuing year, and an estimate of the probable expense of making the same.

**121. ESTIMATE OF INCOME.]** § 39. They shall also make a written estimate of the probable income from poll tax, and such real and personal tax as they are authorized by law to levy.

**122. POWER OF VOTERS.]** § 40. In counties under township organization, all road matters shall be acted upon at the same time as other town matters, and in counties not under township organization, at two o'clock in the afternoon, at which time the voters present in the road district may elect one of their number chairman.

**123. ADDITIONAL TAXATION.]** § 41. If the commissioners of highways, or any three legal voters, shall give notice, by posting notices in at least three of the most public places in the town or road district at least 10 days before the annual meeting, that a larger amount of money will be required for the purpose of constructing or repairing roads or bridges in their town or road district, than can be realized from the poll tax, and real and personal property tax authorized by law to be assessed by the commissioners, the legal voters present at such meeting may authorize an additional amount to be raised by tax, not exceeding 60 cents on each \$100. valuation.

**124. REGULAR ANNUAL TAX.]** § 42. The highway commissioners of each town and road district shall annually ascertain, as near as practicable, how much money must be raised by tax on real and personal property, for highway purposes, during the ensuing year; and they shall, in counties under township organization, give to the supervisor of the township and in Cook county to the county board a statement of the amount necessary to be raised — signed by a majority of said commissioners — on or before the Tuesday next preceding the annual September meeting of the board of supervisors, who shall cause the same to be submitted to said board for their action at such September meeting of said board.

**125. RETURN TO CO. CLERK.]** And in counties not under township organization, said amount required to be raised, with a list of the resident taxpayers, alphabetically arranged, shall be certified and returned to the county clerk, on or before the first Monday in September in each year: *Provided*, that if the amount to be raised is determined by a vote at the town or road district meeting, that fact and amount shall be so certified and returned as aforesaid.

**126. EXTENDING THE TAX.]** § 43. According to the amount certified as aforesaid, the county clerk, when making out the tax books of state and county taxes for the collector, shall extend the necessary tax in a separate column against each taxpayer's name, or taxable property, as other taxes are extended, which shall be collected the same as state and county taxes.

**127. AGGREGATE CERTIFIED.]** § 44. It shall be the duty of the county clerk to make out and deliver on demand, to the treasurer of the commissioners of highways, a certificate of the aggregate amount of tax so levied and placed upon the tax books.

**128. WHEN PAID OVER.]** § 45. The tax so collected shall be paid to the treasurer of the commissioners of highways, by the collector or sheriff, as the case may be, as fast as the same is collected, except such rate per cent. as shall be allowed for collecting the same.

**129. ASSESSING POLL TAX.]** § 46. The commissioners of highways shall, on or before the first day of May in each year, make out and deliver to their treasurer a list of all able-bodied men in their town or district, between the age of 21 and 50 years, and shall assess against each person upon such list the sum of \$2., as a poll tax, for highway purposes, to be paid to such treasurer by the first Monday in July of each year.

**130. EACH PERSON NOTIFIED.]** § 47. Within 30 days after such list is delivered to such treasurer, he shall cause written or printed notice to be given to each person so assessed, notifying him of the time when, and place where, such tax must be paid, or its equivalent in labor performed.

**131. SUIT FOR POLL TAX.]** § 48. If the amount so assessed shall not be paid nor the labor performed by the first Monday of July in such year, or within 10 days after notice

*Location or Vacation - - - Amount of Damages.*

— if notice is given after that time — it shall be the duty of the treasurer to bring suit therefor against such person, before some justice of the peace having jurisdiction — if in a county under township organization, in the name of the town, or if in a county not under township organization, in the name of the commissioners of highways.

**132. LOCATION OR VACATION.]** § 49. The commissioners of highways may alter, widen or vacate any road, or lay out any new road in their respective town or road district, when petitioned by any number of freeholders not less than 12, residing within three miles of the road so to be altered, widened, vacated or laid out.

**133. THE PETITION REQUIRED.]** Said petition shall set forth, in writing, a description of the road, and what part thereof is to be altered, widened or vacated, and if for a new road, the names of the owners of lands, if known, and if not known it shall be so stated, over which the road is to pass, the points at which it is to commence, its general course, and the place at or near where it is to terminate.

**134. NOTICE OF PETITION.]** § 50. Whenever any such number of freeholders determine to petition the commissioners of highways for the alteration, widening or vacation of any road, or laying out any new road, they shall cause a copy of their petition to be posted up in three of the most public places in the town or road district, in the vicinity of the road to be laid out, altered, widened or vacated, at least 10 days before any action shall be had in reference to such petition. The posting of any notice required by this act may be proved by the affidavit of the person posting the same, or by other legal evidence.

**135. EXAMINING THE ROUTE.]** § 51. Whenever the commissioners of highways shall receive any such petition, with proof of the posting of copies, as in the next preceding section specified, they shall fix upon a time when and where they will meet to examine the route of such road, and to hear reasons for or against the altering, widening, vacating or laying out of the same — which meeting shall be within 15 days of the time of receiving such petition ; and they shall give at least 10 days' notice of the time and place of such meeting, by posting up notices in three of the most public places in the township or road district, in the vicinity of the road to be widened, altered or vacated.

**136. PUBLIC DECISION MADE.]** The commissioners may, by public announcement and by the posting of a notice at the time and place named for the first meeting, adjourn the meeting from time to time, but not for a longer period than 20 days in all ; and shall at the first, or such adjourned meeting, within said 20 days, decide and publicly announce whether they will grant or refuse the prayer of the petition, and shall indorse upon or annex to the petition a brief memorandum of such decision, to be signed by the commissioners. Such decision shall be subject to revocation, in case the prayer of the petition is granted, in the manner hereinafter provided. In case the commissioners refuse to grant the prayer of the petition, they shall within 10 days thereafter file the same so indorsed, or with such decision annexed thereto, in the office of the proper town or county clerk, as the case may be.

**137. FOR VACATION ONLY.]** § 52. If the petition is simply for the vacation of a road, and the commissioners of highways, or a majority of them, shall, at such meeting, decide that the prayer of the petitioners should be granted, they shall order such road to be vacated — a copy of which order, together with the petition, shall be by them filed with the county clerk of the proper county, in counties not under township organization, and recorded by such clerk in a book provided for that purpose ; but in counties under township organization they shall file a copy of such order, together with the petition, with the town clerk ; such order to be so filed within 10 days after the date of such decision.

**138. SURVEY AND PLAT REQUIRED.]** § 53. If such petition is for the establishment of a new road, or the alteration or widening of an existing road, and the commissioners of highways, or a majority of them, shall be of the opinion that the prayer of the petitioners should be granted, they shall cause a survey and a plat of such road to be made by a competent surveyor, who shall report such survey and plat to said commissioners, giving the courses and distances, and specifying the land over which such road is to pass — in which they may make such changes between the termini of the road described in the petition, as the convenience and interest of the public, in their judgment, may require.

**139. AMOUNT OF THE DAMAGES.]** They shall also, before they order any road to be established, altered, widened or vacated, ascertain the aggregate amount of damages which

*Release of the Damages - - - Service of the Notice.*

the owner or owners of the land over which such road is to pass shall be entitled to, by reason of the location, alteration or vacation of such road: *Provided however*, that in case an appeal is taken from the assessment of damages before the justice of the peace, the commissioners may, in their discretion, make an order laying out, widening, altering or vacating such road, either before or after such appeal is determined, in the manner herein-after provided.

**140. RELEASE OF THE DAMAGES.]** § 54. The damages sustained by the owner or owners of the land, by reason of the establishment, alteration, widening or vacation of any road, may be agreed upon by the owners of such lands, if competent to contract, and the commissioners of highways, or they may be released by such owners — in which cases the agreement or release shall be in writing, and shall be filed and recorded with the copy of the order establishing or altering such road, and shall be a perpetual bar against such owners, their grantees and assigns, for all further claims for such damages.

**141. ASSESSMENT OF DAMAGES.]** § 55. In case such damages are not released or agreed upon, as in the preceding section specified, the commissioners of highways shall, within 20 days from the date of the meeting at which it was decided to grant the prayer of the petition, make a certificate that they are about to establish, widen, vacate or alter a public road, describing such road, vacation, widening or alteration, and the land over or on which such road is to be established, altered, widened or vacated, and naming the owners of such land, if known, and if not known, stating that fact, and asking for a jury to assess the damages of such owners, and shall present such certificate to some justice of the peace of the county, who shall summon a jury of six persons in the manner hereinafter provided, having the qualifications of jurors, to appear before such justice of the peace at a time to be fixed by him, within 10 days from the time such certificate was presented to him, to assess such damages.

**142. RESIDENT OWNER NOTIFIED.]** The commissioners of highways shall also notify each and every owner of land — if known, and a resident of the county — whose damages are to be assessed, that they will apply to some justice of the peace of the county (giving the time when, and place where) to have a jury impaneled to assess such damages.

**143. SELECTING A JURY.]** Upon the presentation of such certificate by the commissioners of highways, the justice of the peace shall forthwith name 18 persons having the qualifications of jurors, and who shall also be freeholders, one-third of whom shall not be residents of the town or road district in which the proposed road is located. The commissioners of highways shall have the right to strike from such list of names the names of six of such persons named, and the owners of the lands whose damages are to be assessed — or their authorized agent or agents, shall also have the right to strike from such list the names of six other persons; and the six persons whose names still remain on said list, shall comprise the jury to assess such damages: *Provided*, that if the commissioners of highways and the owners of lands shall fail to strike from such list the names of twelve persons, the justice of the peace shall select from the names still remaining, the six persons to constitute said jury.

**144. CHALLENGES: FILLING VACANCY.]** At the trial of the case, either party shall have the right of challenge for cause, and for that only; and any deficiency in the number of jurors, from whatever cause, shall be supplied by summoning other persons residing in the township or road district, or in an adjoining township or road district. Such justice of the peace shall notify the owners of such land mentioned in such certificate to appear at the same time before such justice to prove their damages.

**145. UNKNOWN OWNER NOTIFIED.]** In case it shall appear either from the certificate of the commissioners, the affidavit of any person, or the return of any officer to whom the notice may be delivered for service, that there is any unknown owner or owners who cannot be found and served within the county, such justice shall also cause notices to be posted in three of the most public places in the vicinity of such proposed road or alteration, at least six days before the time fixed for the appearance of such jury, stating when such jury is to be impaneled by him, and describing the road to be established, altered, widened or vacated as petitioned for, and the lands for which damages are to be assessed.

**146. SERVICE OF THE NOTICE.]** § 56. The notice to such owners of lands may be served by any constable or one of the petitioners, or other person of lawful age, at least five days before the time of appearance. If any of such owners is an infant, such summons shall be served by delivering a copy to the infant or its guardian, if any; if no guardian,

*Jury Sworn: Trial - - - All Proceedings Revoked.*

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the person with whom he or she resides; if any owner is a lunatic or habitual drunkard having a conservator, or insane, by delivering a copy to his conservator, if any; if any such owner is a married woman, by delivering a copy to her.

**147. JURY SWORN: TRIAL.]** § 57. The jury shall appear before and be sworn or affirmed by such justice, faithfully and impartially to assess the damage of each of the owners specified in such certificate, or those of them whose claims are then to be adjusted, according to law to the best of their judgment and understanding, and all parties in interest shall be entitled to subpenas and other writs and papers, and the trial shall be conducted as in other civil cases.

**148. EVIDENCE: VIEW: VERDICT.]** The jury shall hear such lawful evidence touching the question of such damages as may be presented to them; and shall also, on request of a majority of the road commissioners or owners of lands whose damages are to be determined, in a body, visit and examine the proposed location, alteration, widening or vacation of such road, and the lands to be taken and affected thereby, and make a written verdict specifying the amount of damages, if any, which each such owner shall recover, and return the same to such justice, to be by him entered on his docket in the nature of a judgment, to be paid by such commissioners, together with the costs of such suit, in case they shall finally determine to establish, alter, widen or vacate such road; and the money therefor shall be paid by the town or road district, out of the funds in the hands of the treasurer of the commissioners of highways, raised for road and bridge purposes, or any person interested in such road:

**149. SEVERAL DIFFERENT OWNERS.]** *Provided*, that when there are several such owners the jury may assess the damages of one or more or all of them at the same time, or they may assess such damages at different times, or there may be different juries and trials at different times for different owners, as a majority of the commissioners of highways may determine; and any such assessment of damages may be continued from time to time for good cause, with the like effect as continuances in other cases before justices of the peace.

**150. APPEAL TO CIRCUIT COURT.]** § 58. The commissioners of highways, or any person interested in such verdict, may appeal from such judgment to the circuit court of the proper county, at any time within 20 days from the rendition of such judgment, by giving bond, with approved security, to be approved by such justice of the peace, or by the clerk of the circuit court to which the appeal is taken. Infants may appeal by their guardian or next friend, lunatics or insane persons by their conservator or next friend, and married women by themselves or their husbands, or jointly with their husbands; and the bonds so executed by them, respectively or jointly, shall be valid against persons under such disability and their securities.

**151. PAPERS AND TRANSCRIPT.]** § 59. When an appeal is taken, the justice of the peace shall, within 10 days from the time the appeal is perfected, send all the papers with a certified copy of his docket to the office of the clerk of the court to which such appeal is taken.

**152. TRIAL OF THE APPEAL.]** § 60. The trial of such appeal shall be as in other appeal cases, and the judgment of the court shall be, that the amount so found for the owners, if any is so found, shall be payable with cost as provided in § 57 of this act.

**153. FINAL DETERMINATION.]** § 61. Within 30 days after the total amount of damages shall have been ascertained, either by release or the agreement of parties, or by assessment before a justice of the peace and a jury, in the manner hereinbefore provided, the commissioners shall hold a meeting to finally determine upon the laying out, altering, widening or vacation of such road, of which meeting said commissioners shall give public notice by causing not less than three notices thereof to be posted in public places within the town or road district, at least five days prior thereto.

**154. ALL PROCEEDINGS REVOKED.]** In cases where the damages are not wholly released or agreed upon, and the commissioners shall be of the opinion that the damages assessed by the jury are manifestly too high, and that the payment of the same would be an unreasonable burden upon the taxpayers of the town or road district, the commissioners may revoke all proceeding had upon the petition by a written order to that effect. And such revocation shall have the effect to annul all such proceedings and assessments, releases and agreements, in respect to damages growing out of the proceedings upon the petition, unless the decision of the commissioners is appealed from and reversed or modified on such appeal, as herein provided.

*Final Order Signed - - - Crops or Fence Removed.*

**155. FINAL ORDER SIGNED.]** In case the commissioners shall not revoke such prior proceedings they shall make an order, to be signed by them, declaring such road so altered, widened or laid out, a public highway, and which order shall contain or have annexed thereto a definite description of the line of such road, together with a plat thereof. The commissioners shall, within 10 days from the date of such order, cause the same, together with the report of the surveyor, the petition, and releases or agreements in respect to damages, to be deposited and filed in the office of the town clerk; and in counties not under township organization, in the office of the county clerk; and such clerks shall respectively note upon such order the date of such filing. It shall be the duty of such clerks, after the time for appeal to supervisors or other commissioners has expired, and in case of such appeal after the same shall have been determined, in case the prayer of the petition is granted, to record such order, together with the plat of the surveyor, in a proper book to be kept for that purpose.

**156. RELEASE OR AGREEMENT MADE.]** In cases where the damages claimed by the land owners for the right of way is released, or is agreed upon between the land owners and the commissioners, the commissioners may, at their first meeting, or at any adjourned meeting, examine the route of the road, and cause a survey thereof to be made, and make their order establishing, altering, widening or vacating the road, according to the prayer of the petition, and return the same within the time and in the manner specified in this act.

**157. PAYMENT OF THE DAMAGES.]** § 62. In case the person to whom any damage is assessed is not a resident of the county or is under disability, the amount of the damages assessed to such person may be deposited with the justice of the peace, or clerk of the court where the judgment for such damages is entered or was recovered, and no road shall be opened until such damages have been so deposited, or the amount thereof has been tendered or paid to the person entitled to receive the same.

**158. CONTRACTS WITH COMMISSIONERS.]** § 63. Any person or persons interested in the establishment, alteration, widening or vacation of any road in this state, are hereby authorized to offer inducements to the commissioners of highways, for the establishment, alteration, widening or vacating of any such road, by entering into contract with said commissioners, conditioned upon such establishment, alteration, widening or vacating, to pay money or any other valuable thing to the town or road district, for the benefit of the road and bridge funds of the same; or to perform any labor, or to construct any road, bridge or culvert on any road which said person or persons desire to have established, widened or altered. And such contracts, in writing, made with said commissioners, shall be deemed good and valid in law, and may be enforced by said commissioners or their successors in office, before any court having jurisdiction.

**159. THE RECORD AS EVIDENCE.]** § 64. The record of the county or town clerk, as the case may be, or a certified copy of such record and papers, relating to the establishment, location, alteration, widening or vacation of any road, shall be *prima facie* evidence in all cases that all the necessary antecedent provisions had been complied with, and that the action of the commissioners of highways, or other persons and officers, in regard thereto, were regular in all respects.

**160. OPENING PRIVATE ROAD.]** § 65. Private roads and cartways, for private and public use, leading from any dwelling or land to a public road, or from one public road to another, may be located and established in the same manner as provided in this act for public roads, except that the same may be petitioned for by one or more persons; and the petition shall state the width of road desired by the petitioners; and such roads and cartways shall not be more than 50 feet wide; and in all cases the petitioner or petitioners shall pay all the costs of such location, and all the damages that may be awarded to the owners of the land over which such private road or cartway shall run, before the same shall be opened, unless the jury which assesses such damages should award, or the commissioners of highways shall agree, that a part of such damages be paid by the town or road district; and all parties interested shall have the same right to appeal in all cases, as provided in this act for public roads.

**161. TIME OF OPENING.]** § 66. If such private road or cartway shall not be opened by the petitioners or their assigns within one year from the time of making the order for the location of the same, such order shall be regarded as rescinded.

**162. CROPS OR FENCE REMOVED.]** § 67. When such private road or cartway is proposed to pass over inclosed lands, the owners of such lands shall have a reasonable time, not

*Working Private Roads - - - Decision of the Majority.*

exceeding eight months, to be designated by the commissioners of highways, to harvest crops and remove fences which may be on such land before such road or cartways shall be opened.

**163. WORKING PRIVATE ROADS.]** § 68. The commissioners of highways may, in their discretion, pay persons who live on or have private roads, which are used by the public, for work done on such roads; but in no case shall they be allowed more than the amount of their road tax for the year in which the work is done.

**164. ROAD ON TOWN LINE.]** § 69. Public roads may be established, altered, widened or vacated on township or county lines, in the same manner as other public roads, except that in such case a copy of the petition shall be posted up in and presented to the commissioners of highways of each town or road district interested; whereupon it shall be the duty of the commissioners of highways of the several towns or districts to meet and act as one body, in the same time and manner as in other cases, in considering the petition, viewing the premises, adjusting damages and making all orders in reference to such proposed road, alteration, widening or vacation, and a majority of all such commissioners must concur in all such orders; and a copy of all final orders and plats and papers shall be filed and recorded in each of the counties, towns or road districts interested.

**165. DIVISION OF THE WORK.]** They shall also, in case a new road is established, allot to each of such towns or districts the part of such road which such town or district shall open and keep in repair, and the part so allotted shall be considered as wholly belonging to such town or district. They shall also divide the expenses and damages which may accrue from such location, widening or alteration, and if they cannot agree they shall refer the matter to three disinterested freeholders, as arbitrators, whose decision shall be final.

**166. APPEAL TO THREE SUPERVISORS.]** § 70. Any person or persons interested in the decision of the commissioners of highways, in determining to or in refusing to lay out, alter, widen or vacate any road, or revoking any previous order or decision relative to any road, may appeal from such decision to three supervisors of the county, outside of the town in which such road or proposed road is located, by giving a written notice of such appeal to the said commissioners of highways and to at least three of the petitioners, and also, to the same parties, a notice when and where such appeal will be tried, at least three days before such trial, within 10 days after such decision has been filed in the office of the proper clerk, and shall also present a written petition to some justice of the peace of the county, asking for an appeal, and stating on what grounds such appeal is taken.

**167. HEARING SUCH APPEAL.]** It shall be the duty of the justice of the peace to cause to be summoned three supervisors of the county, to hear such appeal, and said supervisors shall fix upon a time and place when said appeal will be heard by them; and upon such appeal the said supervisors shall have the same power and authority that is by this act conferred on the commissioners of highways, not only in regard to the laying out, altering, widening or vacating any road, but shall have the same power to cause a jury to be called to assess damages — whenever the state of the proceedings may require it and the supervisors cannot agree with the owners of land in regard to the same.

**168. REPORT OF PROCEEDINGS.]** And they shall make a report of their proceedings and decision in the case, and in like manner that is, by this act, required by the highway commissioners; and shall be entitled to the same compensation; and their decision shall be final in regard to laying out, altering, widening or vacating such road, or in refusing to do the same, for one year after such decision.

**169. COSTS: COST-BOND.]** Any parties taking an appeal from the award or the decision of the three supervisors, highway commissioners, or the verdict of a jury, shall pay the cost of such appeal, in case the award or the decision of said supervisors, highway commissioners, or the verdict of a jury is in all things sustained; and shall file a sufficient bond with the justice of the peace, town or county clerk — as the case may be — before taking such appeal, guaranteeing such payment in such case.

**170. MODE OF APPEALING.]** In cases of appeal, as provided for in this section, in counties not under township organization, the appeal shall be to three commissioners of highways of some road district in the county, other than the road district in which the appeal is taken, who shall have the same powers and compensation, and perform the same duties, that is required of the three supervisors in this section.

**171. DECISION OF THE MAJORITY.]** § 71. The decision of a majority of the supervisors or commissioners of highways selected, in any appeal case, or of the commissioners of highways in any case before them, shall be taken as the decision of said supervisors or commissioners of highways.

*Other Appeal Cases - - - Bridge being Neglected.*

**172. OTHER APPEAL CASES.]** § 72. When the commissioners of highways of one town or district disagree with the commissioners of highways of an adjoining town or district, in regard to the laying out of a new road, or the alteration, widening or vacation of an old road, on any county, town or district line, appeals may be taken from such decision in the same manner as set forth in § 70 of this act: *Provided*, that when such decision is in regard to a road on a county line, in counties under township organization, two supervisors and one commissioner of highways shall be selected from one county, and two commissioners of highways and one supervisor shall be selected from [the] other. The county from which the two supervisors shall be selected shall be determined by the party or parties taking the appeal; and the justice of the peace shall issue his summons accordingly. In counties not under township organization, three commissioners of highways shall be selected from one county interested and four from the other.

**173. CONCERNING REPAIRS.]** § 73. All roads heretofore laid out upon town, district or county lines, shall be divided, allotted, and kept in repair, in the manner as hereinbefore directed. Any public road that is or shall hereafter be laid out on a county or town line, shall be held to be a road on a county or town line, although, owing to the topography of the ground along said county or town line, or at the crossing of any stream of water, the proper authorities, in establishing or locating such road, may have located a portion of the same to one side of such county or town line.

**174. ON STATE LINE.]** § 74. Roads may be laid out and opened upon the line between this and any adjoining state, as provided in the preceding sections, whenever the laws of such adjoining state shall be applicable.

**175. BRIDGE ON DIVISION STREAM.]** § 75. Bridges over streams which divide towns, counties or road districts, and bridges over streams on roads on county, town or district lines, shall be built and repaired at the equal expense of such towns, counties or road districts.

**176. CONTRACT FOR BUILDING.]** § 76. For the purpose of building or keeping in repair such bridge or bridges, it shall be lawful for the commissioners of highways of such adjoining towns, counties or road districts, to enter joint contracts; and such contracts may be enforced, in law or equity, against such commissioners, jointly, the same as if entered into by individuals, and such commissioners may be proceeded against, jointly, by any parties interested in such bridge or bridges, for any neglect of duty in reference to such bridge or bridges, or for any damages growing out of such neglect.

**177. NEGLECTING TO BUILD.]** § 77. If the commissioners of highways of either of such towns or road districts, after reasonable notice in writing from the commissioners of highways of any other of such towns or road districts, shall neglect or refuse to build or repair any such bridge, when any contract or agreement has been made in regard to the same, it shall be lawful for the commissioners so giving notice to build or repair the same, and to recover by suit one half (or such amount as shall have been agreed upon) of the expense of so building or repairing such bridge, with costs of suit and interest from the time of the completion thereof, from the commissioners so neglecting or refusing.

**178. ANY JUDGMENT ENFORCED.]** § 78. Any judgment so recovered against the commissioners of highways of either of such towns or road districts, shall be a charge on such town or road district, as the case may be, unless the court shall certify that the neglect or refusal of such commissioners was wilful or malicious, in which case only such commissioners shall be personally liable for such judgment, and the same may be enforced against them in their personal and individual capacity.

**179. BUILDING EXPENSIVE BRIDGE.]** § 79. When it shall be necessary to build, construct or repair any bridge or road in any town or road district, which would be an unreasonable burden to the same, the cost of which will be more than can be raised by ordinary road taxes in such town or road district, the commissioners of highways shall present a petition to the county board of the county in which such town or road district is situated, praying for an appropriation from the county treasury to aid in the building, constructing or repairing of such bridge or road; and such county board may make an appropriation of so much for that purpose as, in their judgment, the nature of the case requires and the funds of the county will justify — said appropriation to be expended under the supervision of an authorized agent or agents of the county, if the county board shall so order.

**180. BRIDGE BEING NEGLECTED.]** § 80. Whenever it shall be represented to the county board of any county, by the petition of at least 25 legal voters of such county or

*Road Plats Recorded - - - Drainage for a Road.*

of an adjoining county, that any bridge or road, in any town or road district, or any bridge or road on any town, district or county line in such county, should be built, constructed or repaired, and that the same has been improperly neglected by the commissioners of highways of such town or road district, the county board if, on investigation, they are satisfied the interests of the public demands that such road or bridge should be built, constructed or repaired, and that such town or road district has sufficient means to build, construct or repair the same, shall by resolution direct the commissioners of highways of such town or road district, whose duty it is to construct or repair the same, to build, construct or repair the same, or such part thereof as they shall deem reasonable, within the time to be specified in such resolution, and shall cause a copy of such resolution to be served on the commissioners of highways of such town or road district; whereupon such commissioners of highways shall build, construct or repair such bridge or road as directed in such resolution of the county board; and if said commissioners of highways shall fail or refuse to build, construct or repair such bridge or road, or culvert, as directed by such resolution, the county board shall authorize some person to build, construct or repair the same, and cause the necessary amount of the cost thereof to be extended on the tax list of such town or road district, and collected as other road taxes, and applied to pay for such improvement: *Provided*, that no work shall be ordered to be done or performed under the provisions of this section that will cost more than 10 cents on each \$100. valuation of taxable property of the town, or road district, by the last preceding assessment of the same.

**181. ROAD PLATS RECORDED.]** § 81. The county boards of the several counties in this state, not under township organization, shall provide necessary well bound books, in which the county clerk shall record all the papers, plats and surveys, and orders relating to the roads which have been or may be established in the several road districts in his county, when the same are reported to him to be filed in his office.

**182. SURVEY OF ROADS.]** § 82. Upon the petition of 12 legal voters, it shall be the duty of the commissioners of highways of each town and road district, within a reasonable time, to employ a competent surveyor, and have any road or roads designated in such petition in their several towns and road districts re-surveyed and plats thereof made, which plats and surveys shall be by them filed for record in the office of the township or county clerk, as the case may be: *Provided*, that this section shall not apply where the same has been already done, unless the exact location of such road is uncertain.

**183. VACATING OLD ROAD.]** § 83. The establishment of a new road on the route of a road already established according to law, shall not vacate the road previously established, unless such vacation is prayed for in the petition, and so declared in the order establishing the new road.

**184. COMMISSIONERS MAY CONTRACT.]** § 84. The commissioners of highways of the several towns and road districts are hereby authorized to contract for the building of bridges, the constructing of roads, and the repairing of bridges and roads in their respective towns or road districts, and they may let such contracts by a public letting to the lowest responsible bidder, upon proper notice being given by posting copies of such notice in at least three public places in their town or road district, not less than 10 days before the time of such public letting; or if they deem it to be to the interest of their town or road district, they may, to an amount not to exceed \$25., privately contract with persons, as they shall deem best, for putting and keeping the roads and bridges in good repair; but in no case shall such contracts exonerate such commissioners from liability for failure to keep such bridges or roads in repair:

**185. ROAD TAX ORDERS.]** *Provided*, that the collector of taxes shall receive from any tax payer in payment of said tax payer's road and bridge tax any order of the commissioners of highways, on their treasurer, for work done on or material furnished for the construction or repairs of the highways or bridges in any sum not to exceed the amount of such person's road and bridge tax then due.

**186. POLL TAX WORKED OUT.]** § 85. The commissioners of highways may contract with persons owing poll tax for road purposes to perform a certain amount of labor on any road or bridge in their town or road district, for the amount of such tax, and if the work is done within the time that the money should have been paid, the commissioners shall give such person an order on their treasurer, which shall be received by him, instead of the money.

**187. DRAINAGE FOR A ROAD.]** § 86. Whenever a public road or highway shall pass

*Removal of Fences - - - Conflicting Acts Repealed.*

over low or wet lands, and it shall be necessary to drain the same in order to render the said road dry and passable, and the said road cannot readily or conveniently be drained without laying or digging a ditch or ditches over or across the adjacent lands, it shall be lawful for the commissioners of highways or other persons whose duty it is to cause the said road to be made passable, to enter upon the said adjacent lands and construct the required ditch or ditches over and upon the same; and in case the said commissioners or persons shall be unable to agree with the owner or owners of such lands as to the amount of damages to be allowed and paid to such owner or owners, the same shall be fixed and ascertained in the manner and with like proceedings as provided in this act in case of damages in the location or alteration of roads.

**188. REMOVAL OF FENCES.]** § 87. Whenever a public road is ordered to be established, or altered, according to the provisions of this act, which road shall pass through or on inclosed lands, the commissioners of highways shall give the owner or occupant of such land 60 days' notice, in writing, to remove his fences. If such owner or occupant does not remove his fence within 60 days after such notice, the commissioners shall cause the same to be removed, and direct the road to be opened and worked; and such owner shall forfeit to such commissioners the sum of \$1. for every day he shall permit his fence to remain after the expiration of said 60 days, and shall pay all necessary cost of removal, to be collected by said commissioners before any justice of the peace having jurisdiction.

**189. WIDTH OF ROADS: OPENING.]** § 88. All public roads established by the order of the commissioners of highways, shall be 66 feet wide, except in cases of roads not over two miles long the road may be of any width, not less than 33 feet, if so prayed for in the petition, and not otherwise. All public roads shall be opened within one year from the time the order establishing them was recorded. If not assessed [opened] within the time aforesaid, that part not so opened shall be deemed vacated.

**190. PENALTIES AGAINST OFFICERS.]** § 89. If the commissioners of highways shall refuse or neglect to perform any of the duties enjoined on them by this act, they shall severally forfeit not less than \$5. nor more than \$50., and may be proceeded against, severally or jointly, for the recovery of such forfeiture before any justice of the peace in the proper county, in the name and for the use of the informer.

**191. PER DIEM ALLOWED.]** § 90. The commissioners of highways shall receive for their services the sum of \$2. per day for each day necessarily employed in the performance of their duties, the same to be audited by the town auditors or the county board, and paid out of the town or county funds, as the case may be.

**192. "COUNTY BOARD" DEFINED.]** § 91. Whenever the term "county board" is used in this act, it shall be held to mean the board of supervisors in counties under township organization, and to mean the county commissioners or board of county commissioners in counties not under township organization.

**193. CONFLICTING ACTS REPEALED.]** § 92. All laws heretofore existing that may in any way conflict with the provisions of this act, and all laws in relation to overseers of highways and road supervisors, shall be and are hereby repealed.

**194. SHALL BE IN FORCE.]** § 93. This act to take effect and be in force from and after the 15th day of August next.

## CHAPTER 103d.

### TOWNSHIP ORGANIZATION.

- ART. I.** HOW ADOPTED.  
 II. POWER OF TOWNS.  
 III. BOUNDARIES AND DIVISIONS OF TOWNS.  
 IV. POWER OF ELECTORS.  
 V. CONDUCTING TOWN MEETINGS.  
 VI. QUALIFICATIONS — TENURE OF OFFICE.  
 VII. VACANCIES.  
 VIII. THE SUPERVISOR.  
 IX. THE TOWN CLERK.  
 X. BOARD OF AUDITORS — HEALTH.  
 XI. COMPENSATION.  
 XII. LEGAL PROCEEDINGS.  
 XIII. COUNTIES AS CORPORATIONS.  
 XIV. BOARD OF SUPERVISORS.  
 XV. COUNTY TREASURER.  
 XVI. REVENUE.  
 XVII. ROADS, HIGHWAYS AND BRIDGES.  
 XVIII. MISCELLANEOUS PROVISIONS.

#### ART. I. PROCEEDINGS TO ADOPT.

§ 1. <i>Vote to be Taken.</i> § 2. <i>Previous Petition Required.</i> § 3. <i>Returns to be Recorded.</i> § 4. <i>Majority Voting in Favor.</i> § 5. <i>Division into Towns.</i> § 6. <i>Of Township Lines.</i>	§ 7. <i>Name of Towns.</i> § 8. <i>Town Name Changed.</i> § 9. <i>Report of the Commissioners.</i> § 10. <i>The First Town Meeting.</i> § 11. <i>Return to the Auditor.</i> § 12. <i>Where Names are Alike.</i>
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*Laws 1861, 216. 20 Feb. [1 Apr.] § 1. 1. VOTE TO BE TAKEN.]* At any general election that may be holden in the several counties in this state, the qualified voters in any county may vote for or against township organization in any county in this state.

*Ibid. § 2. 2. PETITION REQUIRED.]* The county court, on petition of 50 legal voters of said county, shall cause to be submitted to the voters of the county the question of township organization, under this act, by ballot, to be written or printed, or partly written or partly printed, "For township organization," or "Against township organization," to be canvassed and returned in like manner as votes for state and county officers.

*Ibid. § 3. 3. RETURNS RECORDED.]* The clerk of the county court shall enter an abstract of the returns of said election, to be made out and certified as in elections for state and county officers, record the same at length upon the record of the county court of the county, and shall certify the same to the auditor of public accounts.

*Ibid. § 4. 4. MAJORITY VOTING IN FAVOR.]* If it shall appear, by the returns of said election, that a majority of the legal voters of said county are for township organization, then the county so voting in favor of its adoption shall be governed by and subject to the provisions of this act, on and after the first Tuesday of April next succeeding: *Provided*, that a majority of the voters voting at such election shall be taken and deemed a majority of the voters of said county.

*Ibid. § 5. 5. COMMISSIONERS TO DIVIDE THE COUNTY.]* The county court shall, at its next session, appoint three commissioners, residents of the county, to divide the

## Art. II. Powers and Rights of Towns.

county into towns or townships ; and the said commissioners' services shall be audited by the first board of supervisors, and paid by the county.

*Ibid.* § 6. **6. OF TOWNSHIP LINES.]** The commissioners shall proceed to divide such county into towns, by making as many towns as there are townships, according to government surveys. Where fractions of townships are caused by the county lines not being in accordance with the surveyed townships, then the commissioners may attach such fractions to adjoining towns, where the number of inhabitants or the amount of territory shall not be sufficient for a separate town. Where a surveyed township shall have too few inhabitants for a separate organization, then such township may be added to some adjoining town, or such township may be divided between two or more towns for the time being. And when creeks or rivers may so divide such township as to be inconvenient for transacting town business, then such creek or river may be made the town boundary, and the town fractions so formed may be disposed of as fractions caused by county lines.

*Ibid.* § 7. **7. NAME OF TOWN.]** Towns shall be named in accordance with the express wish of the inhabitants of the town ; and if there shall not be a degree of unanimity as to the name, the commissioners may designate the name.

*Laws* 1859, 129. 18 Feb. [28 Apr.] § 1. **8. CHANGING NAME OF TOWN.]** In all of the counties of this state where township organization has been adopted, the board of supervisors shall have power to change the name of any town or incorporated village in their respective counties, upon a petition of a majority of the voters of said town or incorporated village.

*Laws* 1861, 217. 20 Feb. [1 Apr.] § 8. **9. REPORT OF COMMISSIONERS.]** The commissioners so appointed shall make a written report of their proceedings, giving the names and bounds of each town, and present such report to the clerk of the county court, on or before the first day of March next succeeding.

*Ibid.* § 9. **10. NOTICES FOR FIRST TOWN MEETING.]** The clerk of the county court shall thereupon make out notices for each town, designating a suitable place for holding the first town meeting in such town, which shall be holden on the first Tuesday of April next thereafter, and shall deliver such notice to the sheriff of the county, who shall cause the same to be posted in not less than three of the most public places of the township, and not less than 15 days before the first Tuesday in April aforesaid.

*Ibid.* § 10. **11. RETURN TO THE AUDITOR.]** Each clerk of the county court shall, within 30 days after receiving such report of the commissioners, transmit, by mail, to the auditor of public accounts of this state, an abstract of such report, giving the bounds of each town and the name designated ; and said clerk shall record, in a book for the purpose, a description of each town as fully as the report of the said commissioners.

*Ibid.* § 11. **12. WHERE NAMES ARE ALIKE.]** If the auditor of public accounts, on comparing the abstracts of the reports from the several counties, shall find that any two or more townships have names alike, he shall transmit to the clerk of the county court of the county or counties which have, to alter the name or names of such town or towns ; and the board of supervisors of such county shall, at its next meeting thereafter, adopt for such town some name different from those heretofore named, so that no two towns organized under this act shall be named alike ; and when such name shall be adopted, the clerk of the county court shall inform the auditor of public accounts, as before directed.

*Ibid.* § 12. **13. RECORD OF NAMES AND BOUNDARIES.]** The auditor of public accounts shall make a record of the names and boundaries of the several towns organized under this act.

## ART. II. POWERS AND RIGHTS OF TOWNS.

- § 1. *Towns as Corporations.*
- § 3. *Proceedings by and Against.*

*Laws* 1861, 218. 20 Feb. [1 Apr.] § 1. **1. TOWNS AS CORPORATIONS.]** Each town, as a body corporate has capacity : 1. To sue and be sued, in the manner prescribed by the laws of this state. 2. To purchase and hold lands within its own limits, and for the use of its inhabitants, subject to the power of the general assembly. 3. To make such

## Art. III. Altering Boundaries and Divisions of Towns.

contracts, purchase and hold such personal property, as may be necessary to the exercise of its corporate or administrative powers. 4. To make such orders for the disposition, regulation or use of its corporate property, as may be deemed conducive to the interests of its inhabitants.

*Ibid.* § 2. **2. LIMITATIONS.]** No town shall possess or exercise any corporate powers, except such as are enumerated in this act, or shall be specially given by law or shall be necessary to the exercise of the powers so enumerated or granted.

*Ibid.* § 3. **3. PROCEEDINGS AGAINST — CORPORATIONS.]** All acts or proceedings by or against a town, in its corporate capacity, shall be in the name of such town; but every conveyance of land within the limits of such town, made in any manner, for the use or benefit of its inhabitants, shall have the same effect as if made to the town by name.

### ART. III. ALTERING BOUNDARIES AND DIVISIONS OF TOWNS.

§ 1. <i>Power of the Supervisors.</i>	§ 5. <i>Officers After the Alteration.</i>
§ 2. <i>Failure to Elect Officers.</i>	§ 6. <i>Moneys and Credits Divided.</i>
§ 3. <i>Town May be Annexed.</i>	§ 8. <i>Cemeteries Excepted.</i>
§ 4. <i>Town Property Divided.</i>	§ 9. <i>Debts Apportioned.</i>

*Laws* 1861, 218. 20 Feb. [1 Apr.] § 1. **1. POWER OF THE SUPERVISORS.]** The board of supervisors of each county shall have full and complete power and jurisdiction to alter the boundaries of towns, to change town lines, and to divide, enlarge and to create new towns in their respective counties, to suit the convenience of the inhabitants residing therein; but no new town shall be created under the provisions of this act, unless there shall be at least 30 legal voters residing in such new town, nor unless at least 20 of such legal voters of such town shall petition for such alteration; nor shall any new town hereafter be made or created, or any town divided, or the boundaries of any town changed by the board of supervisors, within their respective counties, without at least 60 days' notice thereof has been given, before the presentation of the petition therefor, by posting up not less than five notices, in the most public places of the town or towns interested, and by also publishing such notice at least once in some newspaper published in the county wherein said towns are situated, if any shall be published therein.

*Ibid.* § 2. **2. FAILURE TO ELECT OFFICERS.]** In case any town, in any county wherein township organization has been or may be hereafter adopted, shall refuse or neglect to organize and elect town officers, at the time fixed by law for holding annual meetings, it shall be lawful for 12 freeholders of the town to call a town meeting for the purposes aforesaid, by posting up notices in six public places in such town, giving at least 10 days' notice of such meeting; which notice shall set forth the time, place and object of such meeting; and the electors, when assembled by virtue of such notice, shall have and possess all the powers conferred upon them at the annual town meeting. In case no such notice shall be given, as aforesaid, within 30 days after the time for holding the annual town meeting, the board of supervisors of the county shall, upon the affidavit of any freeholder of said town, filed in the office of the county clerk or clerk of the board, setting forth the facts, proceed, at any regular or special meeting of the board, and appoint the necessary town officers for such town; and the persons so appointed shall hold their respective offices until others are chosen or appointed in their places, and shall have the same powers, and be subject to the same duties and penalties, as if they had been duly chosen by the electors of the town.

*Ibid.* § 3. **3. ANNEXING A TOWN.]** Whenever it shall be made to appear to the board of supervisors, that the town officers appointed by them, or any preceding board, as provided in the foregoing section, shall have failed to qualify, as required by law, so that such town cannot become organized, the board of supervisors may annex such town to any adjoining town; and the said town so annexed, shall thereafter form and constitute a part of said adjoining town.

*Ibid.* § 4. **4. DIVISION OF TOWN PROPERTY.]** When a town seized of real estate shall be divided into two or more towns, the supervisors and assessors of the several towns constituted by such division shall meet as soon as may be, after the first town

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Art. IV. Town Meetings — Power of Electors.

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meetings subsequently held in such towns, and when so met, shall have power to make such agreement concerning the disposition to be made of such town property and the apportionment of the proceeds as shall be equitable, and to take all measures, and execute all conveyances which may be necessary to carry such agreement into effect.

*Ibid.* § 5. **5. OFFICERS AFTER ALTERATION.]** When any such town shall be altered in its limits, by the annexing of a part of its territory to another town or towns, the supervisors and assessors of the town from which such territory shall be taken, and of the town or towns to which the same shall be annexed, shall, as soon as may be after such alteration, meet for the purpose, and possess the powers provided in the last preceding section.

*Ibid.* § 6. **6. APPORTIONMENT OF MONEYS AND CREDITS.]** When a town, possessed of or entitled to money, rights or credits, or other personal estate, shall be so divided or altered, such personal estate, including moneys, shall be apportioned between the towns interested therein, by the supervisors and assessors of such towns, according to the amount of taxable property in the town divided or altered, as the same existed immediately before such division or alteration — to be ascertained by the last assessment list of such town; and such supervisors and assessors shall meet, for the purposes aforesaid, as soon as may be after the first town meetings subsequently held in such towns.

*Ibid.* § 7. **7. NOTICES REQUIRED.]** Whenever a meeting of the supervisors and assessors of two or more towns shall be required, in order to carry into effect the provisions of this article, such meeting may be called by either of said supervisors; but the supervisor calling the same shall give at least three days' notice, in writing, to all the other officers, of the time and place at which such meeting is to be held.

*Ibid.* § 8. **8. CEMETERIES.]** The preceding sections shall not, however, apply to any cemetery or burial ground, but the same shall belong to the town within which it may be situated after a division shall have been made.

*Ibid.* § 9. **9. DEBTS APPORTIONED.]** Debts owing by a town so subdivided or altered shall be apportioned in the same manner as the personal property of such town; and each town shall, thereafter, be charged with its share of such debts, according to such apportionment.

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**ART. IV. TOWN MEETINGS — POWER OF ELECTORS.**

§ 1. <i>Town Meetings — Notice Required.</i> § 2. <i>Officers to be Chosen.</i> § 3. <i>Number of Justices and Constables.</i> § 4. <i>Who are Fence Viewers.</i> § 5. <i>Power of Town Meetings.</i>	§ 6. <i>Bridges and Causeways.</i> § 7. <i>Sale of Animals Impounded.</i> § 8. <i>By-Laws and Rules Published.</i> § 9. <i>Special Town Meeting.</i> § 11. <i>Voter not to be Arrested.</i>
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*Laws 1861, 220. 20 Feb. [1 Apr.]* § 1. **1. TOWN MEETINGS — NOTICE REQUIRED.]** The citizens of the several towns of this state, qualified by the constitution to vote at general elections, shall annually assemble and hold town meetings in their respective towns, on the first Tuesday of April, at such place in each town as the electors thereof, at their annual town meetings, shall from time to time appoint; and notice of the time and place of holding such meeting shall be given by the town clerk, by posting up written or printed notices in three of the most public places in said town, at least 10 days prior to said meeting; and if there shall be a newspaper published in said town, such notice shall be inserted at least once therein, prior to said meeting.

*Ibid.* § 2. **2. OFFICERS TO BE CHOSEN.]** There shall be chosen, at the annual town meeting in each town, one supervisor, one town clerk, one assessor, one collector, *one overseer of the poor*, [Repealed: *Laws 1867, 172.*] one commissioner of highways, two constables, two justices of the peace, as many overseers of highways as there are road districts in the town, and so many pound masters as the electors may determine: *Provided*, that justices of the peace and constables shall be elected only once in four years, except to fill vacancies; and such justices and constables shall be successors to precinct justices and constables: *Provided, further*, that any town having 800 or more legal voters shall be entitled to elect one additional supervisor, styled assistant supervisor.

## Art. IV. Town Meetings — Power of Electors.

*Ibid.* § 3. **3. NUMBER OF JUSTICES AND CONSTABLES.]** In all towns having a population of more than 2,000 inhabitants, it shall be lawful for the qualified voters thereof to elect one justice of the peace and one constable for each and every 1,000 of its inhabitants, until the population shall reach 5,000, after which the number of justices of the peace and constables shall not be increased. Said justices of the peace and constables shall be elected in the same manner, and shall hold their offices for the same term of time as other justices of the peace and constables. Said justices of the peace shall be commissioned by the governor, and shall have the same jurisdiction, power and authority, and be subject to the same liabilities, and shall execute bond, and be sworn in the same manner as other justices of the peace.

*Ibid.* § 4. **4. FENCE VIEWERS.]** The assessor and commissioners of highways, elected in every town shall, by virtue of their office, be fence viewers of such town. — [Compare Ch. 51.]

*Ibid.* § 5. **5. POWER OF TOWN MEETINGS.]** The electors of each town shall have power, at their annual town meetings :

1. To determine the number of pound masters, and the locality of pounds.
2. To elect such town officers as may be required to be chosen.
3. To direct the institution and defense of suits at law or in equity, in all controversies between such town and corporation, individuals or other towns.
4. To direct such sum to be raised in such town for prosecuting or defending such suits, or for the support and maintenance of roads and bridges, or for any other purpose, as they may deem necessary ; also, to authorize and require the commissioners of highways to assess a road tax on all real estate and personal property liable to taxation in the town, to any amount not exceeding 30 cents on each \$100. worth, as valued on the assessment roll of the previous year.
5. To take measures and give directions for the exercise of their corporate powers.
6. To make such provisions, by-laws and regulations, and allow such rewards for the destruction of Canada thistles or noxious weeds as they may deem necessary, and to raise money therefor ; also, to impose such penalties as they may think proper, not exceeding \$25. for each offense, for a violation of any provisions, by-laws or regulations made as aforesaid.
7. To establish and maintain pounds at such places within the town as may be deemed necessary and convenient, and discontinue any pounds therein.
8. To restrain or prohibit the running at large of cattle, horses, mules, asses, hogs, sheep or goats ; to authorize the distraining, impounding and sale of the same for penalties incurred and the costs of the proceedings, and to determine the time and manner in which such animals may go at large.
9. To make rules and regulations for ascertaining the sufficiency of all fences in such towns, and to determine what shall be a lawful fence within such town.
10. To impose such penalties on persons offending against any rule, regulation or by-laws established by such town, except such as relate to the keeping and maintaining of fences, as they may think proper, not exceeding \$10. for each offense, unless a different penalty is provided by law, and to remit or refund penalties incurred or paid.
11. To apply all penalties, when collected, in such manner as they may deem most conducive to the interests of the town.
12. To make all such by-laws as may be necessary to carry into effect the powers herein granted. Whenever the electors of any town shall determine, at town meeting, to erect one or more pounds therein, the same shall be under the care and direction of such pound masters as shall be chosen or appointed for that purpose.

*Laws 1867, 173. 8 Mar. [27 Aug.] § 3. 6. BRIDGES AND CAUSEWAYS.]* It shall be lawful for the legal voters, at any annual town meeting, to levy a tax for the purpose of building or repairing bridges or causeways, situated in another town in the same county, or in another county : *Provided*, that notice is given, by posting notices describing the location of the bridge or causeway, and the probable amount required therefor, in at least three public places, at least 10 days before said annual meeting, in the town in which said taxes are proposed to be levied : *And also provided*, that such tax, when collected, shall be paid on the joint order of the commissioners of highways of the town in which the bridge or causeway to be rebuilt or repaired is situated, and of the commissioners of highways of the town in which said tax is collected.

## Art. V. Conducting Town Meetings.

*Laws* 1861, 222. 20 Feb. [1 Apr.] § 6. **7. SALE OF ANIMALS IMPOUNDED.**] The sale of animals distrained or impounded under the provisions herein, shall be conducted, as near as may be, according to the law regulating sales of property by constables, under execution. The owner of such animals shall have the right to redeem the same from the purchaser thereof, any time within three months from the date of sale, by paying the amount of the purchaser's bid, with interest thereon at the rate of 10 per cent. per annum.

*Ibid.* § 7. **8. BY-LAWS AND RULES TO BE PUBLISHED.**] It shall be the duty of the town clerk to cause all by-laws, rules and regulations of the town, within 20 days after their adoption, to be published, by posting in three public places in the town; also, if the town so direct, causing the same to be inserted once in a newspaper published in the town, if any there shall be; if not, then in any newspaper published in the county; but all such by-laws, rules and regulations shall take effect and be in force from the date of being adopted, unless otherwise directed by the electors of the town.

*Ibid.* § 8. **9. SPECIAL TOWN MEETINGS.**] Special town meetings shall be held when the supervisor, town clerk and justice of the peace, or any two of them, together with at least 12 freeholders of the town, shall, in writing, file in the office of the town clerk a statement that a special meeting is necessary to the interest of the town, setting forth the object of the meeting; and the town clerk, or in case of his absence, the supervisor, shall post up notices in five of the most public places in the town, giving at least 10 days' notice of such special town meeting, setting forth the object of the meeting, as contained in the statement filed in his office. Such notice shall likewise be inserted at least once in a newspaper published in the town, if any is published therein. The place of holding special town meetings shall be at the place where the last annual town meeting was held; but in case such place shall be found inconvenient, the meeting may adjourn to the nearest convenient place.

*Ibid.* § 9. **10. POWER OF SPECIAL TOWN MEETING.**] The electors, at special town meetings, when properly convened, shall have power:

1. To fill vacancies in the office of justices of the peace, and to fill vacancies in the office of constable, or any town officer, where the same shall not have been already filled by appointment.

2. To provide for raising money for repairing highways, or building or repairing bridges, in cases of emergency, and to direct the building or repairing thereof.

3. To act upon any subject within the power of the electors at the annual town meeting, which was postponed at the preceding annual town meeting, to be considered at a future special town meeting, for want of time. But special town meetings shall have no power to act on any subject not embraced in the statement and notice calling the same.

*Ibid.* § 10. **11. PRIVILEGE FROM ARREST.**] During the day on which any annual or special town meeting shall be held, every person in the town, entitled to vote at such town meeting, shall be privileged from arrest, in all cases, except treason, felony or breach of the peace.

## ART. V. CONDUCTING TOWN MEETINGS.

§ 1. <i>Moderator to be Chosen.</i>	§ 14. <i>Minutes of Proceedings.</i>
§ 3. <i>Minutes Kept by the Clerk.</i>	§ 15. <i>Proclamation Required.</i>
§ 5. <i>Duty of the Moderator.</i>	§ 16. <i>Manner of Choosing Officers.</i>
§ 6. <i>Majority shall Decide.</i>	§ 17. <i>Poll List to be Kept.</i>
§ 7. <i>General Business at two o'clock.</i>	§ 18. <i>The Ballot Box.</i>
§ 8. <i>Disorderly Conduct Punished.</i>	§ 19. <i>Ballots not to be Read.</i>
§ 9. <i>Who are Voters.</i>	§ 20. <i>Canvass of the Votes.</i>
§ 10. <i>Challenges to Voters.</i>	§ 21. <i>Manner of Canvassing.</i>
§ 11. <i>Perjury to be Punished.</i>	§ 22. <i>Result of the Canvass.</i>
§ 12. <i>Illegal Voting Punished.</i>	§ 23. <i>Notice to Persons Elected.</i>
§ 13. <i>Opening and Closing Meetings.</i>	§ 24. <i>List filed with County Clerk.</i>

*Laws* 1861, 223. 20 Feb. [1 Apr.] § 1. **1. MODERATOR TO BE CHOSEN.**] The electors present at any time between the hours of 9 and 10 o'clock, in the forenoon of the day on which there is an annual or special town meeting, shall be called to order by the

## Art. V. Conducting Town Meetings.

town clerk, if there be one. In case there be none, or he is not present, then the voters may elect, by acclamation, one of their number chairman. They shall then proceed to choose one of their number to preside as moderator of such town meeting.

*Ibid.* § 2. **2. His OATH.]** Before the moderator or the presiding officer of any town meeting shall enter upon the duties of his office, he shall take an oath faithfully and impartially to discharge the duties of such office; which oath may be administered by the town clerk or other proper officer.

*Ibid.* § 3. **3. THE CLERK.]** The town clerk, last before elected or appointed, shall be the clerk of the town meeting, and shall keep faithful minutes of its proceedings; in which he shall enter, at length, every order or direction and all rules and regulations made by such meeting.

*Ibid.* § 4. **4.]** If the town clerk be absent, then such person as shall be chosen for that purpose by the electors present, shall act as clerk of the meeting.

*Ibid.* § 5. **5. DUTY OF THE MODERATOR.]** The moderator chosen by the electors to preside at the annual or special town meeting shall regulate the business and proceedings thereof, and shall decide all questions of order, and shall make public declaration of all votes passed. When any vote, so declared by him, shall, upon such declaration being questioned by one or more of the electors present, he shall make the vote certain by causing the voters to rise and be counted or by dividing off.

*Ibid.* § 6. **6. MAJORITY SHALL DECIDE.]** All questions upon motions made at town meetings shall be determined by the majority of the electors voting; and the officer presiding at such meeting shall ascertain and declare the result of the votes upon each question.

*Ibid.* § 7. **7. GENERAL BUSINESS AT TWO O'CLOCK.]** It shall not be lawful for the electors at the annual town meeting, to commence the transaction of any business, except that which shall pertain to the organization of the meeting and the election of the officers of the town, until the hour of two o'clock, in the afternoon; at which hour, or as soon thereafter as the electors present may determine, the general business of the day, which the electors may lawfully transact at town meetings, shall commence, and be continued until such business shall be disposed of; upon the completion of which the moderator shall announce the miscellaneous business of the day to be closed, after which announcement no further business shall be transacted at that meeting, unless the electors shall, at the time of such announcement, as aforesaid, so order, except the election of officers, as aforesaid, or that which appertains thereto; after which no question already disposed of shall be reconsidered, unless the motion for such reconsideration shall be sustained by a number of votes equal to a majority of all the names entered on the poll list, at such meeting, up to the time such motion shall be made.

*Ibid.* § 8. **8. DISORDERLY CONDUCT.]** If any person shall conduct in a disorderly manner at any town meeting, and, after notice from the moderator, shall persist therein, the moderator may order him to withdraw from the meeting, and, on his refusal, may order a constable or other person to take him from the meeting, and confine him in some convenient place until the meeting shall adjourn; and the person so refusing to withdraw shall, for such offense, further forfeit a sum, not exceeding \$10., for the use of the town.

*Ibid.* § 9. **9. WHO ARE VOTERS.]** No person shall be a voter at any town meeting, unless he shall be qualified to vote at general elections, and has been for the last 30 days an actual resident of the town wherein he shall offer to vote.

*Ibid.* § 10. **10. OF CHALLENGES.]** If any person offering to vote at any election, or upon any question arising at such town meeting, shall be challenged as an unqualified voter, the presiding officer shall proceed thereupon in like manner as the judges at the general elections are required, adapting the oath to the circumstances of the town meeting.

*Ibid.* § 11. **11. PERJURY.]** If any person, challenged as unqualified to vote at any town meeting, shall be guilty of wilful and corrupt false swearing or affirming, in taking the oath required in the preceding section, such person shall be deemed guilty of wilful and corrupt perjury, and punished accordingly.

*Ibid.* § 12. **12. VOTING OR ATTEMPTING TO VOTE ILLEGALLY.]** Any person who shall vote, or offer to vote, in any town in which he does not reside, or who shall vote, or offer to vote, in more than one town, or who shall vote or offer to vote more than once on

## Art. V. Conducting Town Meetings.

the same day at any town meeting, or who is not a legal voter, he shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not exceeding \$100., or imprisoned not exceeding six months, or both, by such fine and imprisonment.

*Ibid.* § 13. **13. OPENING AND CLOSING TOWN MEETINGS.**] Town meetings shall be kept open from the time of opening in the morning until 6 o'clock in the afternoon, unless the voters present may, by vote, adjourn one hour, from 12 till 1 o'clock; and at all town meetings and elections of town officers the polls may be closed at 4 o'clock in the afternoon, but may be kept open until a later hour, in the discretion of the electors.

*Ibid.* § 14. **14. MINUTES OF PROCEEDINGS.**] The minutes of the proceedings of every town meeting, subscribed by the clerk of said meeting, and by the presiding officer, shall be filed in the office of the town clerk, within two days after such town meeting.

*Ibid.* § 15. **15. PROCLAMATION REQUIRED.**] Before the electors shall proceed to elect any town officer, proclamation shall be made of the opening of the polls, by the town clerk; and proclamation shall, in like manner, be made of each adjournment, and of the opening and closing of the polls, until the election is ended.

*Ibid.* § 16. **16. OFFICERS CHOSEN BY BALLOT AND OTHERWISE.**] The supervisor, town clerk, assessor, overseer of the poor, collector, commissioners of highways, constables, and justices of the peace, shall be chosen by ballot. All other officers shall be chosen, either by ballot, by yeas and nays, or by dividing the electors, as the electors of the meeting may determine. When the electors vote by ballot, all the officers voted for shall be named in one ballot, which shall contain written or printed, or partly written and partly printed, the names of the persons voted for, and the offices to which such persons are intended to be chosen, and shall be delivered to the presiding officer, so folded as to conceal the contents.

*Ibid.* § 17. **17. POLL LIST.**] When the election is by ballot, a poll list shall be kept by the clerk of the meeting, on which shall be entered the name of each person whose vote shall be received.

*Ibid.* § 18. **18. BALLOT BOX.**] When the election is by ballot, the presiding officer shall deposit the ballots in a box provided for that purpose.

*Ibid.* § 19. **19. READING BALLOTS.**] If any moderator shall at any town meeting, before the poll is closed, read or examine, or permit any person to read or examine the names on any voter's ballot, with the view of ascertaining any candidate voted for by him, such moderator shall forfeit, to the use of the town, the sum of \$25.

*Ibid.* § 20. **20. CANVASS OF THE VOTES.**] At the close of every election by ballot, the presiding officer shall proceed publicly to canvass the votes, which canvass, when commenced, shall be continued without adjournment or interruption until the same be completed.

*Ibid.* § 21. **21. MANNER OF CANVASSING.**] The canvass shall be conducted by taking a ballot at a time from the ballot box and continue counting until the number of ballots are equal to the number of names on the poll list, and if there shall be any left in the box they shall be immediately destroyed; and such persons as shall have the greatest number of votes shall be declared to be elected. If on opening the ballots, two or more ballots shall be found to be so folded that it shall be apparent that the same person voted them, the presiding officer shall destroy such votes immediately.

*Ibid.* § 22. **22. RESULT OF THE CANVASS.**] The canvass being completed, a statement of the result shall be entered at length, by the clerk of the meeting, in the minutes of its proceedings, to be kept by him, as before required, which shall be publicly read by him to the meeting; and such reading shall be deemed notice of the result of the election to every person whose name shall be entered on the poll list as a voter. In case two or more persons shall have an equal number of votes for the same office, the question of which shall be entitled to the office shall be decided between such persons, by lot, under the direction of the town clerk; but he shall give each party notice of the time and place of drawing lots.

*Ibid.* § 23. **23. NOTICES TO PERSONS ELECTED.**] The clerk of every town meeting within 10 days thereafter, shall transmit to each person elected to any town office, whose name shall not have been entered on the poll list as a voter, a notice of his election.

*Ibid.* § 24. **24. LIST OF OFFICERS FILED WITH COUNTY CLERK.**] The town clerk shall file in the office of the clerk of the county court a list of the names of all town officers elected at the annual town meeting, within 20 days after such election shall be held.

## Art. VI. Qualification and Tenure of Office.

## ART. VI. QUALIFICATION AND TENURE OF OFFICE.

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| § 1. <i>Eligibility for Office.</i><br>§ 2. <i>The Official Oath.</i><br>§ 3. <i>Written Acceptance of Office.</i><br>§ 4. <i>Bond of the Collector.</i><br>§ 5. <i>Same Recorded — Lien thereof.</i><br>§ 6. <i>If there be no Supervisor.</i><br>§ 7. <i>Oath and Bond of Constable.</i><br>§ 8. <i>Same Approved — Copies.</i> | § 9. <i>Actions on Constable's Bond.</i><br>§ 10. <i>Refusing to Serve.</i><br>§ 11. <i>Forfeitures therefor.</i><br>§ 12. <i>Failing to take Oath.</i><br>§ 13. <i>Terms of Office.</i><br>§ 14. <i>Demand on Predecessor.</i><br>§ 15. <i>Delivery to Successor.</i><br>§ 16. <i>Death of any Officer.</i> |
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Laws 1861, 226. 20 Feb. [1 Apr.] § 1. **1. ELIGIBILITY FOR OFFICE.**] No person shall be eligible to any town office, unless he shall have been one year a resident of such town.

*Ibid.* § 2. **2. OFFICIAL OATH.**] Every person chosen or appointed to the office of supervisor, town clerk, assessor, overseer of the poor, commissioner of highways, or collector, before he enters upon the duties of his office, and within 10 days after he shall be notified of his election or appointment, shall take and subscribe, before some justice of the peace, such oath or affirmation of office as is prescribed by law.

*Ibid.* § 3. **3.]** Such person shall, within eight days thereafter, cause such certificate to be filed in the office of town clerk.

*Ibid.* § 4. **4.]** If any person chosen or appointed to either or any of the town offices above enumerated shall neglect to take and subscribe such oath and cause the certificate thereof to be filed, as above required, such neglect shall be deemed a refusal to serve.

*Ibid.* § 5. **5. WRITTEN ACCEPTANCE.**] Every person chosen or appointed to the office of overseer of highways, or pound master, before he enters on the duties of his office, and within 10 days after he shall have been notified of his election or appointment, shall cause to be filed in the office of town clerk a notice, signifying his acceptance of such office. A neglect to cause such notice to be filed shall be a refusal to serve.

*Ibid.* § 6. **6. BOND OF COLLECTOR.**] Every person chosen or appointed to the office of collector, before he enters upon the duties of his office, and within eight days after he receives notice of the amount of taxes to be collected by him, shall execute to the supervisor of the town, and his successor in office, and lodge with him a bond, with one or more securities, to be approved by such supervisor, in double the amount of such taxes, conditioned for the faithful execution of his duties as such collector.

*Ibid.* § 7. **7. SUCH BOND RECORDED — LIEN THEREOF.**] The supervisor shall, within six days thereafter, file such bond, with his approval indorsed thereon, in the office of the recorder, who shall make an entry thereof in a book to be provided for the purpose, in the same manner in which judgments are recorded; and every such bond shall be a lien on all the real estate, severally, of such collector, within the county at the time of the filing thereof, and shall continue to be such lien until its conditions, together with all costs and charges which may accrue by the prosecution thereof, shall be fully satisfied; and all actions against the sureties on any collector's bond shall be commenced within two years from the date of the execution thereof, and not afterwards: *Provided*, that actions upon existing bonds shall be commenced within six months from the date of the passage of this act and not afterwards.

*Ibid.* § 8. **8. IF THERE BE NO SUPERVISOR.**] In any town in which there shall be no town supervisor, the collector of the town may make his official bond to the clerk of the county court of the county in which said town may be situated.

*Ibid.* § 9. **9. CONSTABLE'S OATH AND BOND.**] Every person chosen or appointed to the office of constable, before he enters upon the duties of his office, and within eight days after he shall be notified of his election or appointment, shall take and subscribe, before some justice of the peace of the county, the oath of office prescribed by law, and shall execute, in the presence of the supervisor or town clerk of the town, with one or more sureties, to be approved of by such supervisor or town clerk, an instrument, in writing, [in] which such constable and his sureties shall jointly and severally agree to pay to each and every person who may be entitled thereto all such sums of money as the said constable may become liable to pay on account of any executions which shall be delivered to him for collection by virtue of his office, and all such damages as each and

## Art. VII. Filling Vacancies in Town Offices.

every person may sustain by reason of any malfeasance, misfeasance or non-performance of duty on the part of said constable.

*Ibid.* § 10. **10. APPROVAL OF SUCH BOND — COPIES THEREOF.]** The supervisor or town clerk shall, if approved, indorse such approval on such instrument, which shall be his approval of the sureties therein named, and then shall cause the same to be filed in the office of the town clerk; and a copy of such instrument, certified by the town clerk, shall be presumptive evidence in all courts of the execution thereof by such constables and his sureties.

*Ibid.* § 11. **11. ACTIONS ON CONSTABLE'S BOND.]** All actions against a constable or his sureties upon such instrument shall be prosecuted within two years after the expiration of the term for which the constable named therein shall have been elected or appointed.

*Ibid.* § 12. **12. REFUSAL TO SERVE.]** If any person chosen or appointed to the office of collector or constable, shall not give such security and take such oath as is required above, within the time limited for that purpose, such neglect shall be deemed a refusal to serve.

*Ibid.* § 13. **13. FORFEITURES THEREFOR.]** If any person chosen or appointed to the office of supervisor, town clerk, assessor, commissioners of highways, or overseer of the poor, shall refuse to serve, he shall forfeit to the town the sum of \$25.

*Ibid.* § 14. **14.]** If any person chosen or appointed to the office of overseer of highways or pound master, shall refuse to serve, he shall forfeit to the town \$10. — [Consult *Yocum v. The Town of Waynesville*, 39 Ill. 220.

*Ibid.* § 15. **15. FAILING TO TAKE OFFICIAL OATH.]** If any town officer, who is required by law to take the oath of office, shall enter upon the duties of his office before he shall have taken such oath, he shall forfeit to the town the sum of \$50.

*Ibid.* § 16. **16. TERM OF OFFICE.]** Town officers, except justices of the peace and constables, shall hold their office for one year, and until others are chosen or appointed in their places and are qualified. The justices of the peace and constables shall hold their offices for four years, or [and] until others are chosen and qualified.

*Ibid.* § 17. **17. DEMAND ON PREDECESSOR.]** Whenever the term of any supervisor, town clerk, commissioner of highways, or overseer of the poor shall expire, and other persons shall be elected or appointed to such office, it shall be the duty of such successor or successors, immediately after he or they shall have entered on the duties of the office, to demand of his or their predecessor all the books and papers under his or their control, belonging to such office.

*Ibid.* § 18. **18.]** Whenever either of the officers above named shall resign or the office become vacant, in any way, and another person shall be elected or appointed in his stead, the person so elected or appointed shall make such demand of his predecessor [or] of any person having charge of such books and papers.

*Ibid.* § 19. **19. DELIVERY TO SUCCESSOR.]** It shall be the duty of every person so going out of office, whenever thereto required, pursuant to the foregoing provisions, to deliver, upon oath, all the records, books and papers in his possession or in his control, belonging to the office held by him, which oath may be administered by the officer to whom such delivery shall be made. It shall also be the duty of every supervisor, commissioner of the highways, and overseer of the poor, so going out of office, at the same time to pay over to such successor the balance of moneys remaining in his hands, as ascertained by the auditors of town accounts.

*Ibid.* § 20. **20. UPON THE DEATH OF ANY OFFICER.]** Upon the death of any of the officers enumerated, the successor of such officer shall make such demand, as above provided, of the executors or administrators of such deceased officer; and it shall be the duty of such executors or administrators to deliver upon the like oath, all records, books and papers in their possession, or under their control, belonging to the office held by their testator or intestate.

## ART. VII. FILLING VACANCIES IN TOWN OFFICES.

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| § 1. Vacancy filled by Appointment.<br>§ 2. Vacancy in Appointing Board. | <br>§ 3. Warrant of Appointment.<br>§ 4. Acceptance of Resignation. |
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*Laws 1861, 229. 20 Feb. [1 Apr.]* § 1. **1. VACANCY FILLED BY APPOINTMENT.]** Whenever any town shall fail to elect the proper number of town officers, to which such

## Art. VIII. The Supervisor and his Duties.

town may be entitled by law, or when any person elected to any town office shall fail to qualify as such, or whenever any vacancy shall happen in any town office from death, resignation, removal from the town, or other cause, it shall be lawful for the justices of the peace of the town, together with the supervisor and town clerk, to fill the vacancy or vacancies occasioned or occurring in consequence of either or any of the causes above specified, by appointment by warrant, under their hands and seals; and the persons so appointed shall hold their respective offices during the unexpired term of the persons in whose stead they have been appointed and until others are chosen or appointed in their places, and shall have the same powers, and be subject to the same duties and penalties as if they had been duly chosen by the electors.

*Ibid.* § 2. **2. VACANCY IN THE BOARD OF APPOINTMENT.]** Whenever a vacancy shall occur, from any cause, in any or either of the offices enumerated in the foregoing section, as composing the board of appointment for the appointment of town officers, in case of vacancy, it shall be lawful for the remaining officers of such appointing board to fill any vacancy or vacancies thus occurring, except in cases of vacancy in the office of justice of the peace, which shall be filled only by election.

*Ibid.* § 3. **3. WARRANT OF APPOINTMENT FILED.]** When any appointment shall be made, as provided in the two preceding sections, the officers making the same shall cause the warrant of appointment to be forthwith filed in the office of the town clerk, who shall forthwith give notice to each person appointed.

*Ibid.* § 4. **4. RESIGNATIONS ACCEPTED.]** The justices of the peace of a town may, for sufficient cause shown to them, accept the resignation of any town officer of their town; and whenever they shall accept any such resignation, they shall forthwith give such notice thereof to the town clerk of the town: *Provided*, that in towns having more than two justices of the peace, such resignation may be accepted by any two of them.

## ART. VIII. THE SUPERVISOR AND HIS DUTIES.

§ 1. *Moneys Received and Paid Over.*  
 § 2. *Prosecutions for Penalties.*  
 § 3. *Duty in Keeping Accounts.*  
 § 4. *His Annual Settlements.*  
 § 5. *The Certificate Thereof.*

§ 6. *To Attend Annual Meetings.*  
 § 7. *Shall Receive Accounts.*  
 § 9. *For Neglect of Duty.*  
 § 10. *Assistant and Ward Supervisors.*  
 § 11. *Duty as Overseer of Poor.*

*Laws 1861, 230. 20 Feb. [1 Apr.]* § 1. **1. MONEYS RECEIVED AND PAID OVER — HIS BOND.]** The supervisor of each town shall receive and pay over all moneys raised therein for defraying town charges, except those raised for the support of highways and bridges. Said supervisor shall give bond to the town, with one or more sureties, conditioned for the faithful discharge of his duties in relation to the town revenue; such bond to be approved by the town clerk and filed in his office, with such approval indorsed thereon. Whenever the town clerk shall ascertain that such bond has been forfeited, he shall institute suit in the name and for the use of the inhabitants of the town, against such supervisor.

*Ibid.* § 2. **2. HE SHALL PROSECUTE.]** He shall prosecute, in the name of his town or otherwise, as may be necessary, for all penalties of \$50. and under, given by law to such town, or for its use, and for which no other officer is specially directed to prosecute. And no person shall be disqualified from being a witness or juror in such suit by reason of his being an inhabitant of said town.

*Ibid.* § 3. **3. HIS ACCOUNTS.]** He shall keep a just and true account of the receipts and expenditures of all moneys which shall come into his hands, by virtue of his office, in a book to be provided for that purpose at the expense of the town; and said books to be delivered to his successors in office.

*Ibid.* § 4. **4. HIS SETTLEMENTS.]** On Tuesday preceding the annual town meeting he shall account with the justices of the peace and town clerk of the town, or a majority of them, for the disbursement of all moneys received by him in his official capacity.

*Ibid.* § 5. **5. CERTIFICATE THEREOF.]** At every such accounting the justices and town clerk, or a majority of them, shall enter a certificate in the supervisor's office book of accounts, showing the state of his accounts at the date of the certificate.

## Art. IX. The Town Clerk and his Duties.

*Ibid.* § 6. **6. HE SHALL ATTEND MEETINGS.]** The supervisor of each town shall attend the annual meeting of the board of supervisors of the county, and at every adjourned or special meeting of said board of which he shall have notice.

*Ibid.* § 7. **7. SHALL RECEIVE ACCOUNTS.]** He shall receive all accounts which may be presented to him against the town, and shall lay them before the board of town auditors at or before their annual meeting.

*Ibid.* § 8. **8. RAISING MONEYS.]** He shall lay before the board of supervisors such copies of entries concerning moneys to be raised in his town as shall be delivered to him by the town clerk.

*Ibid.* § 9. **9. NEGLECT OF DUTY.]** If any supervisor shall refuse or shall wilfully neglect to perform any of the duties of his office, contained in the preceding section, he shall forfeit to the town the sum of \$50., and be disqualified to act as the supervisor of said town.

*Ibid.* § 10. **10. ASSISTANT SUPERVISORS — WARD SUPERVISORS.]** Assistant supervisors and supervisors of wards in cities shall have no powers or duties as town officers, but shall be members of the board of supervisors of their respective counties, and shall have, possess and enjoy all the rights, powers and privileges of such members.

*Laws* 1867, 172. 8 Mar. [27 Aug.] § 1. **11. SHALL BE OVERSEER OF POOR.]** The supervisors of each town shall be *ex officio* overseer[s] of the poor in their respective towns.

## ART. IX. THE TOWN CLERK AND HIS DUTIES.

§ 1. *Custody of Town Records.*

*Administering Oaths.*

§ 2. *Proceedings of Town Meetings.*

§ 3. *Votes for Raising Money.*

§ 4. *Return of Justices Elected.*

§ 6. *Copies of all Papers.*

*Laws* 1861, 231. 20 Feb. [1 Apr.] § 1. *Laws* 1867,\* 173. 8 Mar. [27 Aug.] § 2. *Laws* 1869,† 407. 4 Mar. § 1. **1. CUSTODY OF RECORDS — ADMINISTERING OATHS.]** The town clerk of each town in this state shall have the custody of all records, books and papers of the town, and he shall duly file all certificates of oaths and other papers required by law to be filed in his office,\* and he shall have power to administer the oath of office to all town officers : † and it is hereby made the duty of the town clerk to administer all necessary oaths which may be required in the transaction of any township business in the town where he may be clerk : *Provided*, that nothing herein shall be so construed as to deprive any other person from administering said oaths as heretofore.

*Laws* 1861, 231. 20 Feb. [1 Apr.] § 2. **2. PROCEEDINGS OF TOWN MEETINGS.]** He shall transcribe in the book of records of his town the minutes of the proceedings of every town meeting held therein, and he shall enter in his book every order or direction, and all rules and regulations by any such town meeting.

*Ibid.* § 3. **3. VOTES FOR RAISING MONEY.]** He shall deliver to the supervisor, before the annual meeting of the board of supervisors of the county, in each year, certified copies of all entries of votes for raising money, made since the last meeting of the board of supervisors, and recorded the same in the town book.

*Ibid.* § 4. **4. RETURN OF JUSTICES AND CONSTABLES ELECTED.]** The town clerk, immediately after the election of justice of the peace, or the qualifying of any constable, elected or appointed in their respective towns, shall return to the county clerk of their respective counties the names of such justices and constables.

*Ibid.* § 5. **5. OMITTING SUCH RETURN.]** If any town clerk shall wilfully omit to make such return, such omission is hereby declared to be a misdemeanor, and on conviction thereof, the person so offending shall be adjudged to pay a fine not exceeding \$10.

*Ibid.* § 6. **6. COPIES OF PAPERS.]** Copies of all papers duly filed in the office of the town clerk, and transcripts from the book of records, certified by him, shall be evidence in all courts, in like manner as if the originals were produced.

## Art. X. The Board of Auditors — Health.

## ART. X. THE BOARD OF AUDITORS — HEALTH.

- § 1. Officers Composing the Board.
- § 2. Any Officer Being Absent.
- § 3. Meetings of the Board.
- § 4. Accounts Kept on File.
- § 5. Charges Against Towns.  
Compensation of Town Officers.
- § 6. Accounts to be Sworn.

- § 7. Certificate to be Made.
- § 8. What are Town Charges.
- § 9. Raising Money Therefor.
- § 10. The Board of Health.
- § 11. Records — Compensation — Expenses.
- § 12. Acceptance of the Act.

*Laws* 1861, 232. 20 Feb. [1 Apr.] § 1. **1. OFFICERS COMPOSING THE BOARD.**] In each town the supervisor, town clerk and justices of the peace of the town shall constitute a board of auditors to examine the accounts of the overseers of the poor and the commissioners of highways for such town, for moneys received and disbursed by them.

*Ibid.* § 2. **2. ANY OFFICER BEING ABSENT.**] In case of the absence of any or either of said officers or their failure to attend any meeting of the board, those attending may associate with them the collector or assessor of the town, or both, in place of any absentee or absentees, as the case may be, who shall act, for the time being, as members of such board.

*Ibid.* § 3. **3. MEETINGS OF THE BOARD.**] The board of auditors of town accounts shall meet at the town clerk's office for the purpose of examining and auditing the town accounts, semi-annually, in their respective towns, on the Tuesday next preceding the annual [town] meeting of the board of supervisors, and on the Tuesday next preceding the annual meeting, and such other times as the interests of the town may require.

*Ibid.* § 4. **4. ACCOUNTS FILED BY THE CLERK.**] The accounts so audited, and those rejected, if any, shall be delivered, with the certificate of the auditors, or a majority of them, to the town clerk, to be by him kept on file for the inspection of any of the inhabitants of the town. They shall also be produced by the town clerk at the next annual meeting, and shall be there read by him.

*Ibid.* § 5. **5. CHARGES AGAINST TOWNS — COMPENSATION OF TOWN OFFICERS.**] The board of auditors, composed of the same officers then in office, shall at the same time and place as stated in § 2, [3] examine and audit all charges and claims against their respective towns, and the compensation of all town officers, except supervisors, for county services.

*Ibid.* § 6. **6. AFFIDAVITS TO ACCOUNTS.**] The board of auditors may require accounts presented to be verified by affidavit, setting forth that the same is correct and just and is unpaid, or if any part thereof has been paid, setting forth how much.

*Ibid.* § 7. **7. CERTIFICATE TO BE MADE.**] The said board shall make a certificate, to be signed by a majority of said board, specifying the nature of the claim or demand, and to whom the amount is allowed, and shall cause said certificate to be delivered to the town clerk of said town, to be by him kept on file, for the inspection of any of the inhabitants of said town ; and the aggregate amount shall be delivered to the supervisor, to be by him laid before the board of supervisors, at their annual meeting. The board of supervisors shall cause the amount of said charges to be levied upon the property of said town, and collected as other taxes are levied and collected. The claims and compensation audited and allowed shall be read to the electors, at the next annual [town] meeting, as directed in § 4 of this article.

*Ibid.* § 8. **8. WHAT ARE TOWN CHARGES.**] The following shall be deemed town charges : 1. The compensation of town officers for services rendered their respective towns. 2. Contingent expenses, necessarily incurred, for the use and benefit of the town. 3. The moneys authorized to be raised by the vote of a town meeting, for any town purposes ; and 4. Every sum directed by law to be raised for any town purposes.

*Ibid.* § 9. **9. RAISING MONEY FOR TOWN CHARGES.**] The moneys necessary to defray the town charges of each town shall be levied on the taxable property in such town, in the manner prescribed in the act for raising revenue and other moneys for state and county purposes and expenses.

## Art. XI. Compensation of Town Officers.

*Laws 1865, 75. 16 Feb. [17 Apr.] § 1. 10. OF THE BOARD OF HEALTH.]* The supervisors, assessor and town clerk of every township shall constitute a board of health, and on the breaking out of any contagious disease in their township or immediate vicinity, they shall have power to make and enforce any rules and regulations, tending to check the spreading of such disease within the limits of such township, as they may deem proper; and for this purpose they shall have power to shut up any house where any infected person may be, or remove such person to any pest house within the limits of said township, at the expense of said party so moved, if he be of sufficient ability to pay, otherwise at the expense of said town.

*Ibid. § 2. 11. RECORDS—COMPENSATION AND EXPENSES.]* The town clerk shall keep a full record of all the doings of said board, and report the same to the annual town meeting of such township, and said board shall be allowed for their time spent in the performance of their said duties, the same sum now allowed to supervisors, and the same, together with all bills by them contracted, and all sums of money by them expended, shall be audited by the board of auditors of such town, and be paid in the same manner as the town expenses are now by law paid.

*Ibid. § 3. 12. ACCEPTANCE OF THIS ACT.]* This act shall only be in operation in counties where the board of supervisors shall, by its resolution, accept the same.

## ART. XI. COMPENSATION OF TOWN OFFICERS.

**1. TOWN CLERK AND SUPERVISOR.** *Laws 1872, 443. 29 March [1 July.] § 36.* The following named town officers shall be entitled to compensation at the following rates, for each day necessarily devoted by them to the services of the town, in the duties of their respective offices: The town clerk, supervisor and overseer of the poor, shall receive for their services \$2. per day, when attending to town business out of town; \$1. for town business in their town: *Provided*, that the town clerk shall receive fees for the following, and not a per diem: For serving notices of election upon town officers, as required by law, 25 cents each. For filing any paper, required by law to be filed in his office, 5 cents each; for posting up notices, required by law, 25 cents each; for recording any order or instruments of writing, authorized by law, 6 cents for each 100 words; for copying any record in his office, and certifying to the same, 6 cents for every 100 words, to be paid by the person applying for the same; for copying by-laws for posting or publication, 6 cents each 100 words, to be paid for by the town.

**2. ASSESSOR: POUND MASTER.]** The town assessor shall receive for his services as assessor, \$2.50 per day: *Provided*, that in towns of 50,000 inhabitants and upwards, in counties of the third class, the assessor shall receive \$5. per day. The pound master shall be allowed the following fees for his services, to-wit: For taking into the pound and discharging therefrom every horse, ass or mule, and all neat cattle, 10 cents each; for every sheep or lamb, 3 cents each; and for every hog, large or small, 5 cents each.

**3. BOARD OF APPOINTMENT: OFFICIAL OATH.]** The officers composing the board of appointment in case of vacancy, when they shall meet for that purpose, and the officers composing the board of town auditors, shall each be entitled to \$1. a day for their services. No justice of the peace or town officer shall be entitled to any fee or compensation, from any individual elected or chosen to a town office, for administering to him the oath of office.

**4. TOWN COLLECTOR'S COMMISSION.]** Each town or district collector shall be allowed a commission of 2 per cent. on all moneys collected by him, to be paid out of the respective funds collected: *Provided*, that in any case where the compensation so allowed shall be insufficient, the town or county board may allow an additional compensation or per diem in lieu of other or greater commissions, in which case said additional compensation shall be paid out of the town or county treasury, as the case may require: *And provided further*, that all excess of commissions and fees over \$1,500. shall be paid into the town or district treasury.

## FEES OF THE BOARD OF SUPERVISORS.

**5. MILEAGE AND PER DIEM.]** § 39. The members of the board of supervisors, and the board of commissioners of Cook county, shall each receive the sum of \$2.50 per day, for the time actually and necessarily engaged in the discharge of his duties as a member of such board of supervisors, to be paid on the order of the board out of the county treasury, and mileage, 5 cents each way, for necessary travel, and no other allowance or emolument, directly or indirectly, for any purpose whatever.

## Art. XII. Legal Proceedings by and against Towns.

## ART. XII. LEGAL PROCEEDINGS BY AND AGAINST TOWNS.

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| § 1. <i>Manner of Conducting.</i><br>§ 2. <i>Name of Town Used.</i><br>§ 3. <i>Process Served 30 Days.</i><br>§ 4. <i>Service on the Supervisor.</i> | § 5. <i>Witnesses and Jurors.</i><br>§ 6. <i>Suits Before Justices.</i><br>§ 7. <i>Actions for Trespass.</i><br>§ 9. <i>Of Costs and Judgment.</i> |
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*Laws 1861, 234. 20 Feb. [1 Apr.]* § 1. **1. MANNER OF CONDUCTING.**] Whenever any controversy or cause of action shall exist between any towns of this state, and between any town and individual or corporation, such proceedings shall be had, either at law or equity, for the purpose of trying and finally settling such controversy; and the same shall be conducted in the same manner and the judgment or decree therein shall have the like effect as in other suits or proceedings of a similar kind between individuals and corporations.

*Ibid. § 2.* **2. NAME OF THE TOWN TO BE USED.**] In all such suits and proceedings the town shall sue and be sued by its name, except where town officers shall be authorized by law to sue in their name of office for the benefit of the town.

*Ibid. § 3.* **3. PROCESS SERVED 30 DAYS.**] But no towns or their officers shall be required to appear, answer or plead to any such suit or action at the first term of the court after the commencement thereof, (when the same shall be commenced in the circuit court,) unless the process aforesaid shall be served, as herein directed, at least 30 days before the commencement of the term.

*Ibid. § 4.* **4. PROCESS SERVED ON SUPERVISOR.**] In all legal proceedings against the town, by name, the first process and all other proceedings required to be served shall be served on the supervisor of the town. And whenever any suit or proceeding shall be commenced, it shall be the duty of the supervisor to attend to the defense thereof, and lay before the electors of the town, at the first town meeting, a full statement of such suit or proceeding, for their direction in regard to the defense thereof.

*Ibid. § 5.* **5. WITNESSES AND JURORS.**] On the trial of every action in which the town will be a party or interested, the electors and inhabitants of such town shall be competent witnesses and jurors, except that in suits and proceedings by one town against another, no inhabitant of either town shall be a juror.

*Ibid. § 6.* **6. SUITS BEFORE JUSTICES.**] Any action in favor of a town, which, if brought by an individual, could be prosecuted before a justice of the peace, may be prosecuted by such town in like manner, before any such justice; but no action to recover shall be brought before any of the justices of the peace residing in the town for the benefit of which the same is prosecuted, but all such actions may be brought before any one of the justices of the peace residing in any other town in the same county.

*Ibid. § 7.* **7. ACTIONS FOR TRESPASS.**] Whenever any action shall be brought to recover a penalty imposed for any trespass committed on the lands belonging to the town, if it shall appear on the trial thereof that the actual amount of injury to such town lands, in consequence of such trespass, exceeds the sum of \$12.50, then the amount of actual damage, with costs of suit, shall be recovered in said action, instead of any penalty for the same trespass, imposed by the town meeting; and such recovery shall be a bar to every other suit for the same trespass.

*Ibid. § 8.* **8. TOWN COMMONS — COMMON LANDS.**] Whenever, by any decree or decision in any suit or proceeding, brought to settle any controversy in relation to town commons or other lands the common property of a town, or for the partition thereof, the right of any town shall be settled and confirmed; the court in which such proceedings shall be had, may partition such lands according to the rights of the parties.

*Ibid. § 9.* **9. OF COSTS AND JUDGMENT.**] In all suits or proceedings, prosecuted by or against towns, or by or against town officers in their name of office, costs shall be recovered as in like cases between individuals. Judgments recovered against a town or against town officers, in actions prosecuted by or against them in their name of office, shall be a town charge, and, when levied and collected, shall be paid to the person or persons to whom the same shall have been adjudged.

Art. XIV. The Board of Supervisors.**ART. XIII. COUNTIES AS BODIES CORPORATE.**

§ 1. *Corporate Powers of Counties.*  
§ 3. *Name of Board of Supervisors.*

§ 4. *County Powers — How Exercised.*  
§ 5. *The Service of Process.*

*Laws 1861, 235. 20 Feb. [1 Apr.]* § 1. **1. CORPORATE POWERS OF COUNTIES.** Consult also Ch. 27.] Each county, as a body corporate, has capacity: 1. To sue and be sued, in the manner prescribed by law. 2. To purchase and hold land, within its own limits, and for the use of its inhabitants, subject to the power of the general assembly over the same. 3. To make such contracts and purchase and hold such personal property as may be necessary to the exercise of its corporate or administrative powers; and 4. To make such orders for the disposition, regulation or use of corporate property as may be deemed conducive to the interests of its inhabitants.

*Ibid. § 2. 2. LIMITATIONS.]* No county, under this organization, shall possess or exercise any corporate powers, except such as are enumerated in this act, or shall be specially given by law, or shall be necessary to the exercise of the powers so enumerated or given.

*Ibid. § 3. 3. NAME OF THE BOARD OF SUPERVISORS — CONVEYANCES.]* All acts and proceedings by or against a county, in its corporate capacity, shall be in the name of the board of supervisors of such county; but every conveyance of lands within the limits of such county, made in any manner, for the use and benefit of its inhabitants, shall have the same effect as if made to the board of supervisors.

*Ibid. § 4. 4. POWERS OF A COUNTY — How EXERCISED.]* The powers of a county, as a body politic, can only be exercised by the board of supervisors thereof, or in pursuance of a resolution by them adopted.

*Ibid. § 5. 5. SERVICE OF PROCESS.]* In all suits or proceedings against a county, the service of process shall be by leaving a copy thereof with the clerk of the board of supervisors, and by leaving also a copy with the chairman of said board. In case there shall be no chairman acting, then by leaving a copy with any three members of said board. — [Consult also Ch. 27 § 6.

**ART. XIV. THE BOARD OF SUPERVISORS.**

§ 1. *Annual and Special Meetings.*  
§ 2. *Notice for Special Meetings.*  
§ 3. *Time of Annual Meetings.*  
§ 4. *Chairman of the Board.*  
§ 5. *Certificates of Election.*  
§ 6. *Powers of the Supervisors.*  
§ 7. *Quorum of the Board.*  
§ 8. *Doors to be Opened.*  
§ 9. *Oath to be Administered.*

§ 10. *Duties of County Clerk.*  
§ 12. *Records of the Board.*  
§ 13. *Accounts Indorsed and Certified.*  
§ 14. *Court Houses and Jails.*  
§ 15. *Poor and Poor Houses.*  
§ 16. *New Town — Name Changed.*  
§ 17. *Per Diem of Supervisor.*  
§ 18. *Proceedings to be Published.*  
§ 19. *Duties Neglected or Refused.*

*An act to amend the law concerning township organization. Approved 12 April, 1871. In force 1 July, 1871.*

**1. ANNUAL AND SPECIAL MEETINGS.]** § 1. The county boards of the several counties in this state that have or may adopt township organization, shall be composed of the supervisors and assistant supervisors of the organized townships thereof, and supervisors of incorporated towns and cities. Such supervisors shall meet annually in their respective counties, for the dispatch of business as a board of supervisors; they may also hold special meetings at such times and places as they may find convenient, and shall have power to adjourn from time to time, as they may deem necessary.

**2. NOTICE FOR SPECIAL MEETINGS.** *Laws 1861, 236. 20 Feb. [1 Apr.]* § 1. Special meetings of the board of supervisors shall be held only when requested by at least one-third of the members of the board; which request shall be in writing, addressed to the clerk of the board, and specifying the time and place of such meeting; upon reception of which the clerk shall immediately transmit notice, in writing, of such meeting to each of the members of the board. The clerk shall also cause notice of such meeting to be published in some newspaper published in the county, if any is published therein.

**3. ANNUAL MEETINGS.** *Laws 1869, 401. 29 Mar. [19 June.]* § 1. The annual meet-

## Art. XIV. The Board of Supervisors.

ing of the board of supervisors, in all counties having township organization, shall be held on the second Tuesday in September, annually, instead of the second Monday as now required by law.

*Laws 1861, 236. 20 Feb. [1 Apr.] § 4.* **4. CHAIRMAN OF THE BOARD.]** The board of supervisors, at their first meeting in every year, shall organize, by choosing one of their number as chairman, who shall preside at all meetings of the board during the year. In case of his absence at any meeting, the members present shall choose one of their number as temporary chairman.

*Ibid. § 5.* **5. CERTIFICATES OF ELECTION.]** The supervisors shall severally lay before the board of supervisors, at the first meeting after the election, their several certificates of election; which shall be examined by the board of supervisors, and, if found regular, shall be filed in the office of the clerk of the county court.

*Ibid. § 6.* **6. POWERS OF THE SUPERVISORS.]** The board of supervisors of each county in this state shall have power, at their annual meetings, or at any other meeting:

1. To make all such orders concerning the corporate property of the county as they may deem expedient.

2. To audit all accounts chargeable against such county, and to direct the raising of such sums as may be necessary to defray the same.

3. To audit the accounts of town officers and other persons against their respective towns, as are not otherwise by law provided, and to direct the raising of such sums as may be necessary to defray the same.

4. To appropriate funds to aid in the construction of roads and bridges, in any part of their respective counties, whenever a majority of the whole board of the county may deem it proper and expedient.

5. To change the boundaries of towns and to create new towns, in their respective counties, in manner provided by law; to designate and give names thereto, and to fix the place of holding the first town meeting therein.

6. To change the name of any town or incorporated village in their respective counties, upon petition of a majority of the voters of said town or incorporated village. — [Consult also Art. 1 § 8.]

7. To relocate or vacate state roads in their respective counties, as the public interest may require, in manner provided by law.

8. To perform all other duties, not inconsistent with this act, which may be required of or enjoined on them by any laws of this state, or which are enjoined upon county courts, when holding terms for the transaction of county business in those counties not adopting township organization.

Power to offer rewards for criminals; consult Ch. 45.

*Ibid. § 7.* **7. QUORUM.]** A majority of the supervisors of any county shall constitute a quorum for the transaction of business; and all questions which shall arise at meetings shall be determined by the votes of the majority of the supervisors present, except in such cases as is otherwise provided.

*Ibid. § 8.* **8. DOORS TO BE OPEN.]** The board of supervisors shall sit with open doors, and all persons may attend their meetings.

*Ibid. § 9.* **9. OATH ADMINISTERED BY CHAIRMAN.]** Every chairman of the board of supervisors shall have power to administer an oath to any person concerning any matters submitted to the board or connected with their powers and duties.

*Ibid. § 10.* **10. DUTIES OF THE COUNTY CLERK.]** The clerk of the county court shall be clerk of the board of supervisors, whose general duties shall be: 1. To record in a book, to be provided for that purpose, all the proceedings of the board. 2. To make regular entries of all the resolutions or decisions on all questions concerning the raising or payment of moneys, or for the regulating of affairs under their control. 3. To record the vote of the supervisors on any question submitted to the board, if required by any member of the board. 4. To file and preserve all accounts acted upon by the board.

*Ibid. § 11.* **11. HIS COMPENSATION.]** The clerk shall receive a reasonable compensation for his services, to be fixed by the board, and to be paid by the county.

*Ibid. § 12.* **12. RECORDS OF THE BOARD.]** The books, records and accounts of the board of supervisors shall be deposited with the clerk, and shall be open, without reward, to the examination of all persons.

*Ibid. § 13.* **13. ACCOUNTS INDORSED AND CERTIFIED.]** It shall be the duty of the

## Art. XV. The County Treasurer.

clerk to designate upon every account upon which any sum shall be audited and allowed by the board, the charges for which the same was allowed, and he shall deliver to any person who may demand it, a certified copy of any account on file in his office on receiving from such person five cents for every 100 words contained in said copy.

*Ibid.* § 14. **14. COURT HOUSES AND JAILS.** Consult also Ch. 27 § 19.] It shall be the duty of the several boards of supervisors, as often as it shall be necessary, to build court houses and jails, or cause the same to be repaired, in their respective counties, at the expense of such counties.

*Ibid.* § 15. **15. POOR AND POOR HOUSES.** Consult also Ch. 80.] It shall be the duty of the board of supervisors to take charge of the poor and the management of the poor house in their respective counties. And the overseers of the poor of the several towns shall be accountable to, and their compensation and accounts shall be audited by the board of supervisors and paid by the county.

*Ibid.* § 16. **16. NEW TOWN—NAME CHANGED.**] Whenever the board of supervisors shall create a new town or change the name of an existing town or incorporated village, the clerk shall transmit to the auditor of public accounts a statement of such action on the part of the board; and if it shall appear that there is already a town or incorporated village in the state of the same name as that designated by the supervisors, the auditor shall so inform the clerk of said board; and the supervisors shall designate another name, not already applied to any other town or incorporated village within the state.

*Ibid.* § 17. **17. PER DIEM OF SUPERVISOR.**] Each member of the board of supervisors shall be allowed a compensation for his services and expenses in attending the meeting of the board or for attending to any other business for the benefit of the county, or as a member of the board, not exceeding \$2. per day, and no more.

*Ibid.* § 18. **18. PROCEEDINGS PUBLISHED.**] The clerk of the board of supervisors shall, at the close of each annual or special meeting of the board, cause a brief statement of the proceedings thereof to be published in a newspaper published in the county, in which shall be set forth the name of every individual who shall have had any account audited and allowed by said board, and the amount of said claim as allowed and amount claimed, and also their proceedings upon the equalization of the assessment roll.

*Ibid.* § 19. **19. DUTIES NEGLECTED OR REFUSED.**] If any supervisor shall wilfully refuse or neglect to perform any of the duties which are or shall be required of him by law as a member of the board of supervisors, he shall, for every such offense, forfeit the sum of \$200.

## ART. XV. THE COUNTY TREASURER.

Consult also, Ch. 28 and Ch. 89 Art. III. and V.

- § 1. *His Acceptance—His Bond.*
- § 2. *Such Bond to be Additional.*
- § 3. *Approval, Record and Lien.*
- § 4. *Shall Receive County Funds.*
- § 5. *And Keep the Accounts.*
- § 6. *Collection of Taxes—Fees.*

- § 7. *Exhibit of Books and Vouchers.*
- § 8. *In Case of Death, Resignation, etc.*
- § 9. *Failing to Deliver Money, etc.*
- § 10. *Commissions Allowed.*
- § 11. *Treasurer to be Prosecuted.*
- § 12. *Of the Moneys Recovered.*

*Laws* 1861, 239. 20 Feb. [1 Apr.] § 1. **1. HIS ACCEPTANCE—HIS BOND.**] Every person elected or appointed to the office of county treasurer shall, within 10 days after he is notified of his election or appointment, file in the office of the county court clerk a written acceptance of the office of treasurer; and before he enters upon the duties of his office shall give bond to the board of supervisors of the county, with two or more sufficient sureties, to be approved by the board of supervisors, and in such sum as they shall direct, conditioned that such person shall faithfully execute the duties of his office, and shall pay according to law, all moneys which shall come to his hands as treasurer, and render a just and true account thereof to the board of supervisors or to the auditor of public accounts of this state, when thereupon required.

## Art. XV. The County Treasurer.

*Ibid.* § 2. **2. SUCH BOND TO BE ADDITIONAL.]** The bond required by the preceding section shall not, however, dispense with the necessity of the bond from such treasurer as county collector of taxes, as now provided by law, and nothing in this act shall be construed as having that effect; but the county treasurer shall be required to execute bond as county collector, the same and in the same manner as is now by law provided.

*Ibid.* § 3. **3. APPROVAL AND RECORD—LIEN OF.]** Such bond when approved by the board of supervisors shall be entered upon the records and filed in the office of the county clerk. Said clerk shall forward a certified copy thereof to the auditor of public accounts who shall file the same in his office; and such copy shall have the same force and effect as the original bond. County treasurer's bonds shall be a lien against their real estate.

*Ibid.* § 4. **4. SHALL RECEIVE MONEYS.]** It shall be the duty of the county treasurer to receive all moneys belonging to the county from whatever source they may be derived, and all moneys belonging to the state, which by law are directed to be paid to him, and to pay and apply such moneys in the manner required by law.

*Ibid.* § 5. **5. AND KEEP ACCOUNTS.]** The county treasurer shall keep a just and true account of the receipts and expenditures of all moneys, in a book or books to be kept for that purpose; which books shall be provided at the expense of the county.

*Ibid.* § 6. **6. COLLECTION OF TAXES—FEES THEREFOR.]** The county treasurer shall have the same power to collect the taxes charged against the delinquent or non-resident lands or town lots, and to make sale thereof for the same, as is now or may hereafter be vested in the sheriff or collector, under the general laws of this state, and shall account for and pay over the state tax, in like manner and at the same time that county collectors are required to pay over said tax. Said treasurer shall be entitled to like fees for delinquent real estate and for traveling to the seat of government, as county collectors are entitled to under the revenue laws. The county treasurer shall, within 20 days after having completed the collection of the delinquent tax, deposit the assessment rolls or tax books returned by the town collectors, in the office of the county clerk.

*Ibid.* § 7. **7. EXHIBIT OF BOOKS AND VOUCHERS.]** At the annual meeting of the board of supervisors, or at such other times as they shall direct, the county treasurer shall exhibit to them all his books and accounts and all vouchers relating to the same, to be credited and allowed.

*Ibid.* § 8. **8. IN CASE OF DEATH, RESIGNATION OR REMOVAL.]** Upon the death, resignation or removal from office of any county treasurer, all the books and papers belonging to his office shall be delivered to his successor in office, upon his oath, or in case of his death, upon the oath of his executors or administrators. In case such treasurer has left the county, a demand may be made of any one having charge of the books or papers belonging to said office, who shall surrender them up, and on oath, if required.

*Ibid.* § 9. **9. FAILING TO TURN OVER MONEYS OR PAPERS.]** If any such preceding county treasurer, or in case of his death, if his executors or administrators shall refuse or neglect to deliver such books, papers and moneys, upon oath, when lawfully required or demanded, every such person shall forfeit for the use of the county, the sum of \$1,000.

*Ibid.* § 10. **10. COMMISSIONS ALLOWED.** Consult also Ch. 98 § 72.] The county collectors, or treasurers in counties adopting township organization, shall hereafter be allowed in their settlement with the auditor, for receiving the state tax from the town collectors, and paying the same into the state treasury, adjusting the accounts of said town collectors, and correcting delinquent lists, a commission of two per cent., when the amount received does not exceed \$10,000., and one per cent. on all sums received from town collectors over that amount, and shall be allowed one per cent. for receiving the county and town tax, and one per cent. for paying out the same: *Provided*, that he shall not be allowed any commission for paying over to a successor.—[See also 610 § 203; 289 § 68.

*Ibid.* § 11. **11. TREASURER TO BE PROSECUTED.]** Whenever any county treasurer shall fail or refuse to pay over the county revenue, the board of supervisors shall cause suit to be prosecuted on his bond; and the auditor shall have the same power to prosecute suit against the county treasurers on the copy of their bonds, as is allowed by law for prosecuting suits against county collectors.

*Ibid.* § 12. **12. MONEYS RECOVERED.]** All moneys recovered in any such action shall be paid or appropriated for the uses contemplated or directed by law.

## Art. XVI. Assessment of Property — Collection of Taxes.

## ART. XVI. ASSESSMENT OF PROPERTY — COLLECTION OF TAXES.

- § 1. *Lands Owned by Residents.*
- § 2. *Lands of a Non-Resident.*
- § 3. *Assessment of Personal Property.*
- § 4. *Lands and Stock of Corporations.*
- § 5. *Clerk to Prepare Assessor's Books.*
- § 6. *List of Real Estate.*
- § 7. *Manner of Making such List.*  
*Book for Personal Property.*
- § 8. *Time of Making Assessments.*
- § 9. *Articles Listed Separately.*
- § 10. *Person Assessed as Trustee.*
- § 11. *Notice for Corrections.*
- § 12. *Review of the Assessments.*
- § 13. *Forms and Instructions.*

- § 15. *Equalization by Supervisors.*
- § 16. *Unlawful and Improper Assessments.*
- § 17. *Collector Stopped by Injunction.*
- § 18. *Mode of Re-Assessment.*
- § 19. *Returns of Re-Assessments.*
- § 20. *Collection of such Taxes.*
- § 21. *Return and Settlement therefor.*
- § 22. *Town Collector Failing to Pay Over.*
- § 24. *The Satisfaction Piece.*
- § 27. *Fees and Duties of County Clerk.*  
*Rate of County Taxes.*
- § 28. *Effect of this Article.*
- § 29. *Extending District Road Tax.*
- § 31. *Same to be Paid Over.*

*Laws 1861, 240. 20 Feb. [1 Apr.] § 1. 1. LANDS OWNED BY A RESIDENT.] Every person shall be assessed in the town or district where he resides, for all the lands then owned by him within such town or district.*

*Ibid. § 2. 2. LANDS OF NON-RESIDENT.] Land owned by a person residing in a town or district where the same is situated, but occupied by another person, may be assessed in the name of the owner or occupant, at the election of the assessor.*

*Ibid. § 3. 3. ASSESSMENT OF PERSONAL PROPERTY.] Every person shall be assessed in the town or district where he resides when the assessment is made, for all personal estate owned by him, including all such personal estate in his possession or under his control, as trustee, guardian, executor or administrator; and in no case shall property held under either of these trusts be assessed against any other person.*

*Ibid. § 4. 4. LANDS AND STOCK OF CORPORATIONS.] The real estate of all incorporated companies liable to taxation, shall be assessed in the town or district in which the same shall lie in the same manner as the real estate of individuals. All the capital stock of every incorporated company, liable to taxation shall be assessed in the town or district where the principal office of said company is located or business transacted. In the case of toll bridges, the company owning such bridge shall be assessed in the town or district in which the tolls are collected. In the case of a stage company, the horses and stages shall be taxed in the town or district where they are usually kept: *Provided*, that nothing in this section or act contained, shall in any way affect the manner of assessing the taxable property belonging to any railroad company or companies as now provided or prescribed by the assessment or revenue laws of this state.*

*Ibid. § 5. 5. CLERK TO PREPARE ASSESSOR'S BOOKS.] It shall be the duty of the clerk of the county court, in each and every county where they have organized into townships, to procure or prepare, in conformity with the instructions with which he may from time to time be furnished by the auditor of public accounts, blanks or books properly ruled and with suitable headings for the use of the assessors of the several towns or districts in his county; a suitable number of which shall always be ready for the assessors throughout the county. And each assessor shall call for the same on or before the first day of May in each and every year. The expense of procuring the same shall be audited by the board of supervisors, and paid out of the county treasury. He shall also furnish each assessor with a list of all taxable lands within their respective towns or districts as have not been heretofore furnished.*

*Ibid. § 6. 6. LIST OF REAL ESTATE.] On the Saturday succeeding the first Tuesday of April, 1861, and every year thereafter, the clerk of the county court shall have, ready to be delivered to the assessor of each town, a book properly ruled and headed containing a list of the real estate in numerical order, with such blank columns as may be necessary for the use of the assessors.*

*Ibid. § 7. 7. MANNER OF MAKING SUCH LIST — BOOK FOR PERSONAL PROPERTY.] The clerk in making out said list, shall take as his guide, the assessment list or collector's*

## Art. XVI. Assessment of Property — Collection of Taxes.

book of the previous year and the list of subsequent conveyances: *Provided*, that the lists of lands reported in the annual abstract shall be furnished to the assessors of the several towns in which said lands described in said abstract may be situated, within five days from and after such abstract is received from the auditor's office; and at the same time, the clerk shall also cause to be delivered to the assessors aforesaid, a book properly ruled and headed for the abstract of the assessment of personal property.

*Ibid.* § 8. **8. TIME OF MAKING ASSESSMENTS.]** Between the first day of April and July in each year, the assessors shall, after being furnished with the necessary blanks, proceed to ascertain by diligent inquiry, the names of all the taxable inhabitants in their respective towns or districts, and also the taxable property, real or personal within the same, and shall proceed to take a list of taxable property in his town, and assess the value thereof, in the manner and as now provided by law.

*Ibid.* § 9. **9. ARTICLES LISTED SEPARATELY.]** They shall set down in separate columns, as headed for each article of taxable property, according to their best information and judgment in accordance with the revenue laws of this state.

*Ibid.* § 10. **10. PERSON ASSESSED AS TRUSTEE, ETC.]** When a person is assessed as trustee, guardian, executor or administrator, he shall be assessed as such with the addition of his name to his representative character.

*Ibid.* § 11. **11. COMPLETION OF ASSESSMENT.]** Every assessor shall complete the assessment rolls on or before the first Monday in July, as now provided by law, and shall forthwith cause notices thereof to be posted up in three or more of the most public places in the town, ward or district.

*Ibid.* § 12. **12. NOTICES FOR CORRECTION.]** Such notices shall set forth the time and place where he will meet with the town clerk and supervisor of the town to correct the roll; which time of meeting shall not be less than 10 days from completing the assessments, nor more than 15 days from the time of such completion.

*Ibid.* § 13. **13. REVIEW OF ASSESSMENTS.]** The assessor, town clerk and supervisor shall attend at the time and place specified in the notice, and on the application of any person conceiving himself aggrieved, they shall review the assessment; and when the person so objecting thereto shall make an affidavit that the value of his personal estate does not exceed a certain sum specified in such affidavit, the assessor shall reduce the assessment to the sum specified in such affidavit; and if he or any other one objects to the valuation put upon any of their real estate, the board shall hear the objections, and may reduce the same, if a majority of the board think it advisable, and in such case the assessor shall correct his list.

*Ibid.* § 14. **14. FORMS AND INSTRUCTIONS.]** The assessors, in the execution of their duties, shall use the forms and preserve the instructions which shall from time to time be transmitted to them by the auditor of public accounts or furnished them by the county clerks.

*Ibid.* § 15. **15. EQUALIZATION BY SUPERVISORS.]** The board of supervisors of each county in this state, at their annual meeting, shall examine the assessment rolls of the several towns in their county, for the purpose of ascertaining whether the valuations in one town or district bear just relation to all the towns and districts in the county; and they may increase or diminish the aggregate valuation of real estate, in any town or district, by adding or deducting such sum upon the hundred dollars as may, in their opinion, be necessary to produce a just relation between all the valuations of real estate in the county; but they shall, in no instance, reduce the aggregate valuation of all the towns and districts below the aggregate valuation thereof, as made by the assessor. They may make such alterations in the descriptions of the lands of non-residents as they shall deem necessary; and they shall assess the value of all such lands as have been omitted by the assessor and listed by the clerk, and cause the same to be placed opposite the description of said lands, in a column prepared for that purpose; and for such service the clerk shall be allowed one cent for each tract or description so equalized. — [Consult *The State v. Allen*, 43 Ill.

*Ibid.* § 16. **16. UNLAWFUL AND IMPROPER ASSESSMENTS.]** Said board of supervisors shall have power, and it is hereby made their duty, in case the assessment roll of any town or towns shall, by affidavit or otherwise, be made to appear to the satisfaction of said board, or a majority of them, to have been unlawfully, partially or improperly made, and that such assessment is grossly wrong and partial, to amend such assessment, or declare

## Art. XVI. Assessment of Property — Collection of Taxes.

the same null and void ; and said board shall have power to appoint some suitable person or persons, who shall be residents of such towns, to proceed to make a new assessment of property therein, and make return thereof to the board of supervisors, on or before a day to be fixed and specified by said board.

*Ibid.* § 17. **17. COLLECTOR ESTOPPED BY INJUNCTION.]** In case the collector of any town shall have been, or may hereafter be estopped, by injunction or the decision of any court, from the collection of the taxes, in consequence of the assessment of the property in said town being wrongfully or illegally assessed, it shall be the duty of the board of supervisors of the county in which any such town is located to hold a meeting as soon after they shall have notice of such injunction being granted or decision rendered as practicable, and they shall inquire into the facts in the case ; and if a majority of the board are of the opinion that any such assessment was wrongfully or illegally made, they are hereby authorized and empowered, and it shall be their duty to appoint one or more persons, residents of said town, to re-assess the property therein.

*Ibid.* § 18. **18. MANNER OF MAKING RE-ASSESSMENT.]** The person or persons so appointed shall make and subscribe the oath, and be governed in all things pertaining to said assessment in like manner as town assessors, and shall proceed, without delay, to make such re-assessment. Such person or persons shall attend at the office of the town clerk of said town for the purpose of reviewing the lists or rolls of said assessment. And said assessment rolls or lists shall be examined and corrected, in like manner and by the same officers that would be authorized to review and correct it if it had been a regular assessment, except that the person or persons making the assessment shall act, instead of the regular assessor : *Provided*, that the person or persons making such assessment shall first give at least 10 days' notice of the time and place of reviewing the assessment ; which notice shall be once published in some newspaper published in said county, if there be any paper published therein ; and said notice shall be posted up in three or more of the most public places in such town.

*Ibid.* § 19. **19. RETURNS OF RE-ASSESSMENT.]** The person or persons making the assessment aforesaid, shall make return thereof to the county clerk, in manner and form as is or may be prescribed by law for making returns of assessment, and be allowed such reasonable compensation therefor as the board of supervisors shall determine and allow ; which compensation shall be paid in like manner as the compensation of town assessors is paid. Upon the return of the assessment rolls aforesaid, the county clerk shall cause the proper list of the property assessed, with the taxes extended thereon, to be made, for the use of the town collector. Said lists shall be made out and delivered to the collector authorized to collect the taxes due thereon, as soon after the assessment rolls or lists are received by the clerk as practicable.

*Laws 1861, 244. 20 Feb. [1 Apr.]* § 20. **20. COLLECTION OF SUCH TAXES.]** The board of supervisors shall have power, and they are hereby fully authorized to appoint some suitable person to collect the taxes due on the lists made out, as aforesaid, if in their opinion it is expedient to do so. And the person so appointed shall execute a bond and qualify, in like manner, and shall receive like compensation, and shall be subject to like penalties as town collectors are subject to. Any person appointed and qualified, as provided for in this section, shall have full power and authority to collect the taxes charged in the tax list ; and for that purpose he may levy on and make sale of goods and chattels, and do all and everything necessary to be done in the premises, in like manner as town collectors are authorized to do by the general laws relative to the collection of the revenue.

*Ibid.* § 21. **21. RETURN AND SETTLEMENT THEREFOR.]** The board of supervisors shall fix the time at which such collector shall make return and settlement for the taxes collected by him : *Provided*, that such time shall in no case exceed 60 days from the time the tax list is delivered to said collector ; and the county collector is hereby authorized and required to collect the taxes due on any assessment made under the provisions of this act on non-resident property, by sale or otherwise, in like manner as he is authorized to do in cases of regular assessments.

*Ibid.* § 22. **22. TOWN COLLECTOR FAILING TO PAY OVER.]** In all cases where the collector of any town shall not have paid over to the county collector the state revenue prior to the time such county collector is required to pay said revenue into the state treasury, the county collector shall pay over the state revenue collected in said town within 30 days after the time of settlement with the town collectors.

## Art. XVII. Roads, Highways and Bridges.

Repealed: See REVENUE § 765 n. 18.

*Ibid.* § 23. **23. DOUBLE PAYMENT OF TAXES.]** When two or more persons shall be claimants of any lands the town collector shall be authorized to receive payment of taxes from each claimant of such land and give receipt for the same; and said collector shall report to the clerk of the county court such double tax, to be by him disposed of as is now required by law; which receipt shall be evidence in all courts, where the same shall come in question, of the payment of taxes on the land therein described for the year or years therein mentioned.

*Ibid.* § 24. **24. SATISFACTION PIECE.]** Upon the settlement of the amount of taxes directed to be collected by any collector in any of the towns or cities in this state, the county treasurer shall, if requested, give to such collector, or any of his sureties, a satisfaction piece, in writing, and shall acknowledge the same before some person authorized to take acknowledgments of deeds.

*Ibid.* § 25. **25.]** Upon the production of such satisfaction piece, acknowledged as aforesaid, the recorder of the county shall enter satisfaction of record of the collector's bond; which shall operate, *prima facie*, as a discharge of the sureties only.

*Ibid.* § 26. **26.]** The officer taking and returning such acknowledgment shall be entitled to the same fees as for taking and entering acknowledgments of satisfaction of a deed or mortgage.

*Ibid.* § 27. **27. FEES OF COUNTY CLERKS — THEIR DUTIES.]** The clerks of the county courts shall hereafter be allowed the same fees for making transcripts of each taxable town lot for the use of the assessor; for copying the same, and computing and extending the taxes thereon; for making record of each town lot for judgment; for making transcript of judgment for sale, and for assisting the collector in selling the same, as are now allowed by law for like services on each tract of land.

COUNTY TAXES. Consult also Ch. 89 §§ 92 and 179.] The board of supervisors of each county shall have power to levy, for county purposes, a tax of not exceeding five mills on each dollar's worth of taxable property, instead of not exceeding four mills, as now provided by law.

*Ibid.* § 28. **28. EFFECT OF THIS ARTICLE.]** Nothing in this article shall be construed as affecting the provisions of any law now in force concerning the assessment of property and collection of taxes, when the same is not in conflict with the provisions herein; but where the same shall be in conflict with any of the provisions of this act, in that case the provisions herein shall govern.

Laws 1867, 96. 27 Feb. § 1. **29. EXTENDING DISTRICT ROAD TAX.]** In all counties acting under township organization, the county clerk, in extending district road tax upon the tax books, shall designate to what district said tax belongs.

*Ibid.* § 2. **30. ABSTRACT OF DISTRICT ROAD TAX.]** It shall be the duty of county and township collectors to make out an abstract of the amount of district road tax due to each district of the respective townships, and deliver the same to the treasurer of the commissioners of highways.

*Ibid.* § 3. **31. SUCH TAX PAID OVER.]** The commissioners of highways shall pay over the district road tax according to the abstracts as furnished above, to the various overseers of roads in their respective towns, to be applied on the roads of said district.

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- § 2. Their Treasurer — His Duties.
- § 3. Their Annual Account.
- § 4. Guide Boards to be Put up.
- § 5. Of Plows and Scrapers.
- § 6. Meetings of the Commissioners.
- § 7. Highway Labor and Road Tax.
- § 8. Who shall perform Road Labor.  
Assessment of Road Tax.  
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- § 10. Names Omitted — New Names.
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## Art. XVII. Roads, Highways and Bridges.

§ 24. <i>Of Overseers of Highways.</i>	§ 66. <i>Notice of Petition for Vacation, etc.</i>
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§ 38. <i>Disposition of the Fine.</i>	§ 77. <i>Suit on the Bond.</i>
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§ 56. <i>Examination by Commissioners.</i>	§ 94. <i>Notice for Opening Road.</i>
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§ 61. <i>Order to be Filed.</i>	§ 99. <i>Injuries and Obstructions.</i>
§ 64. <i>Road Vacated or Relocated.</i>	§ 100. <i>Injuring Bridge or Guide Board.</i>
§ 65. <i>Viewers Examine and Report.</i>	§ 101. <i>Actions for Penalties.</i>
	§ 102. <i>Who may bring Suit.</i>

Laws 1861, 246. 20 Feb. [1 Apr.] § 1. **1. COMMISSIONERS OF HIGHWAYS — THEIR DUTIES.**] The commissioners of highways in the several towns in this state shall have the care and superintendence of highways and bridges therein, and it shall be their duty:

1. To give directions for the repairing of roads and bridges in their respective towns, and to cause the building of bridges, when the public interests or necessity require it.

2. To lay out and establish roads, to regulate the roads already laid out, and to alter or vacate such roads, as they, or a majority of them, shall deem proper, as hereinafter provided.

3. To cause such roads used as highways as have been laid out, but not sufficiently described, and such as have been used for 20 years, but not recorded, to be ascertained, described and entered of record in the town clerk's office.

4. To cause the highways and bridges which are or may be erected over streams intersecting highways, to be kept in repair.

5. To divide their respective towns into so many road districts as they shall deem convenient, by writing, under their hands, to be lodged with the town clerk, and by him to be entered in the town book. Such division to be made annually, if they shall think it necessary; and in all cases to be made at least 10 days before the annual town meeting.

6. To assign to each of the said road districts such of the inhabitants liable to work on highways as they shall think proper, having regard to proximity of residence as much as shall be; and,

7. To require the overseers of highways, from time to time, and as often as they shall deem necessary, to warn all persons to work on highways to come and work thereon, with

## Art. XVII. Roads, Highways and Bridges.

such implements, carriages, sleds, cattle or teams as the said commissioners, or any of them, direct.

*Ibid.* § 2. **2. THEIR TREASURER — HIS DUTIES.]** At the first meeting of the commissioners of highways, after they shall have been duly elected and qualified, they shall proceed to choose one of their number treasurer. The treasurer so chosen shall receive and have charge of all moneys raised in the town for the support and maintenance of roads and bridges. He shall hold such moneys, at all times, subject to the order of the commissioners of highways, and shall pay them over upon their order, or a majority of said commissioners, and not otherwise. He shall execute bond, with good and sufficient security, in such manner as the supervisor and town clerk shall determine, conditioned for the faithful discharge of his duties as such treasurer, and that he will honestly and faithfully account for and pay over, upon the order of the commissioners of highways, all moneys that shall come to his hands by virtue of his said office; which bond shall be payable to the supervisor of the town and his successor in office, and be approved by the supervisor and town clerk, and filed in the town clerk's office.

*Ibid.* § 3. **3. THEIR ANNUAL ACCOUNT.]** The commissioners of highways of each town shall render to the board of town auditors, at their annual meeting for auditing the accounts of town officers, an account in writing, stating:

1. The labor assessed and performed in such towns.
2. The sums received by such commissioners for fines and commutations, and all other moneys received under this act.
3. A statement of the improvements necessary to be made on such roads and bridges, and an estimate of the probable expense of making such improvement, beyond what the labor to be assessed in that year and the road tax will accomplish.
4. Also, a statement, in writing, of all expenses and damages in consequence of laying out, altering or discontinuing roads.

5. Also, a statement of the amount received from the collector of the town, or from any other source, up to the time of such statement, and the manner in which the same, if any sum, has been paid out and expended, to whom, and on what account.

*Ibid.* § 4. **4. GUIDE BOARDS.]** It shall be the duty of the commissioners of highways of each town to cause suitable guide boards to be put up at such places as they may deem necessary.

*Ibid.* § 5. **5. SCRAPER AND PLOW.]** The commissioners of highways, whenever they shall think it necessary, may direct and empower any overseer of highways, in their respective towns, to procure a good and sufficient iron or steel-shod scraper and plow, or either of them, for the uses of his road district, to be paid for by moneys arising from commutation and fine within the district.

*Ibid.* § 6. **6. MEETINGS OF THE COMMISSIONERS.]** The commissioners of highways of each town shall meet, within 18 days after they shall be chosen, at the town clerk's office, on such day as they shall agree upon, and afterwards at such other times and places as they shall think proper.

*Ibid.* § 7. **7. HIGHWAY LABOR AND ROAD TAX.]** The town clerk shall deliver the lists filed by the overseers to the commissioners of highways of the town, who shall proceed to ascertain, estimate and assess the highway labor and road tax to be performed and paid in their town the next ensuing year.

*Laws* 1861, 247. 20 Feb. [1 Apr.] § 8. **8. WHO SHALL PERFORM HIGHWAY LABOR.]** 1. Every male inhabitant, being above the age of 21 years and under the age of 50, (excepting paupers, idiots, lunatics, and such others as are exempt by law,) shall be assessed not less than one nor more than two days in each and every year.

*Laws* 1867, 171. 28 Feb. [29 Apr.] § 8. **ASSESSMENT OF ROAD TAX.]** 2. The commissioners of highways shall assess a road tax on all real estate and personal property liable to taxation of the town, to any amount they may deem necessary, not exceeding 40 cents on each \$100. worth, as valued on the assessment roll of the previous year.

*Laws* 1861, 248. 20 Feb. [1 Apr.] § 8. **LISTS OF HIGHWAY LABOR AND ROAD TAX.]** 3. They shall affix to the name of each person named in the lists, so furnished by the overseers, the number of days assessed to each person for highway labor, personal property, and also a description of each tract of land, and the name of the owner, if known, with the valuation thereof, as taken from the assessment roll of the previous year, and the amount of road tax assessed thereon in a separate column. The lists so prepared shall

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be subscribed by the commissioners and deposited with the town clerk, to be filed in his office.

*Laws 1869, 406. 11 Mar. § 1. POWER OF THE VOTERS.]* The legal voters of any township in the state, in counties, where township organization has been or may hereafter be adopted, may, by a majority vote at their annual town meeting, provide that thereafter the road tax assessed by the commissioners of highways, under the provisions of § 8 \* \* [above,] to be collected in money only, to be expended by the commissioners of highways in such townships, on roads within their jurisdiction, by such agents or officers as they shall direct.

*Laws 1861, 248. 20 Feb. [1 Apr.] § 9. 9. COPIES OF LISTS GIVEN TO OVERSEERS.]* The commissioners shall direct the clerk of the town to make a copy of each list, and shall subscribe such copies, after which they shall cause the several copies to be delivered to the respective overseers of highways of the several districts in which the highway labor is assessed; one copy for each overseer shall contain the name and number of days assessed to each person, the other the real and personal property road tax.

*Ibid. § 10. 10. NAMES OMITTED — NEW NAMES.]* The names of persons left out of any such list, and of new inhabitants, shall, from time to time, be added to the several lists, and they shall be rated by the overseers in the same proportion to work on the highways as others rated by the commissioners on such list, subject to an appeal to the commissioners.

*Ibid. § 11. 11. WORK ON PRIVATE ROADS.]* It shall be the duty of commissioners of highways of each town to credit such persons as live on private roads and work the same, so much, on account of their assessment, as such commissioners shall deem necessary to work such private road, or to annex such private road to some of the highway districts.

*Ibid. § 12. 12. NOTICE OF THE ASSESSMENT OF ROAD TAX.]* The town clerk shall, within 10 days after the commissioners of highways have filed in his office the amount of road tax assessed on the real and personal estate of the towns, post a notice on the outer door of the house where the town meeting was last held, stating the amount of road tax assessed on each \$100. worth of the real and personal estate of the town, and that all persons interested can pay the same in labor on the highways, under the direction of the overseer of highways, in the district where the land or personal property is situated. — [Extension of the road tax; Art. 16 §§ 29—31.]

*Ibid. § 13. 13. NEGLECT OF DUTY — FAILURE TO PERFORM.]* If the commissioners of highways shall refuse or neglect to perform any of the duties enjoined on them by this act, they shall severally forfeit, to the town, not less than \$5. nor more than \$50., and may be proceeded against, severally, for the recovery of said forfeiture.

*Ibid. § 14. 14. BUILDING EXPENSIVE BRIDGE.]* Whenever it shall be necessary, in any town, to build a bridge, the cost of which shall be more than can be raised by ordinary road taxes, the commissioners of highways shall lay before the town auditors of such town a statement of the amount of money necessary for the construction thereof, and said board of auditors shall certify the same to the board of supervisors of the county in which such town is situated. The amount so certified shall, by said board of supervisors, be levied on the taxable property of such town and collected by the collector thereof, in the same manner as other taxes are levied and collected.

*Laws 1867, 173. 8 Mar. [29 Apr.] § 4. 15. PETITION FOR BUILDING OR REPAIRING A BRIDGE.]* Whenever 25 voters of any county shall represent, by petition, to the board of supervisors, that a bridge or bridges, road or roads, in any town in said county need to be constructed or repaired, and have been improperly neglected by such town, the board of supervisors, if, on inquiry, are satisfied that such town is of sufficient ability to build or repair such bridge or bridges, road or roads, they shall, by resolution, direct such town to construct or repair such bridge or bridges, road or roads, or such part thereof as they may deem just and reasonable, and specify such time for compliance with the resolutions of the board as may be deemed necessary, and cause a copy of said resolution to be served on the commissioners of highways of said town; and said commissioners of highways are authorized and required to build or repair such bridge or bridges, road or roads, as directed in the resolution of the board of supervisors, at the expense of said town; and if said town shall fail or refuse to build or repair such bridge or bridges, road or roads, as required by the board of supervisors, said board shall authorize some person to make the improve-

## Art. XVII. Roads, Highways and Bridges.

ment, and extend the amount of the cost thereof on the tax list of such town, and have the same collected as other town taxes, and applied to pay for such improvement.

*Laws 1861, 249. 20 Feb. [1 Apr.] § 15.* **16.** NOTICE — CROSSING FASTER THAN A WALK.] The commissioners of highways of each town may, when they shall deem it advisable, put up and maintain, in conspicuous places, at each end of any bridge in such town, maintained at the public charge, a notice with the following words, in large characters: "Five dollars fine for riding or driving on this bridge, faster than a walk."

*Ibid. § 16.* **17.** PENALTY THEREFOR.] Whoever shall ride or drive, faster than a walk, over any bridge, upon which such notices shall have been placed and shall then be, shall forfeit to the town, for every such offense, the sum of \$5.

*Ibid. § 17.* **18.** INJURY TO BRIDGE.] Whoever shall purposely injure any bridge or causeway, maintained at the public charge, shall, for every offense, forfeit to the town treble damages.

*Ibid. § 18.* **19.** BRIDGE ON TOWN LINE.] Whenever any adjoining town shall be liable to make or maintain any bridge or bridges over any stream dividing such towns, or on the line dividing such towns, such bridge or bridges shall be built and repaired at the equal expense of said towns, without reference to the town lines.

*Ibid. § 19.* **20.**] For the purpose of building or keeping in repair such bridge or bridges, it shall be lawful for the commissioners of highways of said adjoining towns to enter into joint contract; and such contracts may be enforced, in law or equity, against such commissioners, jointly, the same as if entered into by individuals; and said commissioners may be proceeded against, jointly, for any neglect of duty in reference to such bridge or bridges.

*Ibid. § 20.* **21.**] If the commissioners of highways of either of such towns, after reasonable notice, in writing, from the commissioners of highways of any other of such towns, shall neglect or refuse to rebuild or repair any such bridge or bridges, it shall be lawful for the commissioners so giving notice to make or repair the same, and then to maintain a suit, in their official capacity, against said commissioners so neglecting or refusing to join in such making or repairing; and in such suit the plaintiff shall be entitled to recover one-half of the expenses of such building or repairing, with costs of suit and interest.

*Ibid. § 21.* **22.**] Any judgment recorded against the commissioners of highways, in their official capacity, under the provisions hereof, shall be a charge on said town, and collected in the same manner as other town charges, except in cases when the court, before which the judgment shall be recorded, shall certify that the neglect or refusal of said commissioners was wilful or malicious; in which case said commissioners shall be personally liable for such judgment, and the same may be enforced against them in the same manner as against individuals.

*Ibid. § 22.* **23.** CROSSING UNDER HIGHWAY.] Any persons owning lands on both sides of any public highway shall be entitled to the privilege of making a crossing under said highway, for the purpose of letting his or her cattle and other domestic animals cross said road: *Provided*, said person shall erect at his own expense a good and substantial bridge, with secure railing on each side thereof, and build an embankment of easy grade on either side of said bridge. Said bridge to be not less than 16 feet wide, to be approved by the commissioners, and to be kept constantly in good repairs by the owner or occupant of said land, subject to the direction of said commissioners of highways.

*Laws 1861, 250. 20 Feb. [1 Apr.] § 23.* **24.** OVERSEERS OF HIGHWAYS — THEIR DUTIES.] It shall be the duty of overseers of highways in each town:

1. To repair and keep in order the highways within their several districts for which they shall have been elected.

2. To warn all persons from whom road labor is due to work on the highways, at such times and places, within their several districts, as they may think proper.

3. To collect all fines and commutation money, and to execute all lawful orders of the commissioners of highways.

4. To deliver to the clerk of the town, within 16 days after their election or appointment, a list subscribed by such overseers, of the names of all the inhabitants in his road district who are liable to work on the highways.

*Ibid. § 24.* **25.** OVERSEER MAY BE APPOINTED.] If any person, chosen or appointed to the office of overseer of highways, shall refuse to serve, or if his office shall become

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Repealed: See ROADS AND BRIDGES § 193.

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vacant, the commissioners of highways of the town shall, by warrant, under their hands, appoint some other person in his stead; and the overseers so appointed shall have the same powers, be subject to the same orders, and liable to the same penalties, as overseers chosen at the town meeting.

*Ibid.* § 25. **26.**] The commissioners making the appointment shall cause such warrant to be forthwith filed in the office of the town clerk, who shall give notice to the person appointed, as in other cases.

*Ibid.* § 26. **27. NEGLECTING OR REFUSING TO PERFORM DUTIES.**] Every overseer of highways who shall refuse or neglect to perform any of the duties hereinbefore enumerated, or which may be lawfully enjoined on him by the commissioners of highways of his town, shall, for every such refusal or neglect, forfeit the sum of \$10., to be sued for by the commissioners of highways of the town, and when recovered, to be applied by them in making and improving the roads and bridges therein.

*Ibid.* § 27. **28. NOTICE TO PERFORM HIGHWAY LABOR.**] It shall be the duty of overseers of highways to give at least three days' notice to all persons assessed to work on highways, and residing within the limits of their respective districts, of the time and place when and where they are to appear for that purpose, and with what implements; but no person, being a resident of the town, shall be required to work on any highway other than in the district in which he resides, except he resides in a district on a town line, which district belongs to an opposite town, and unless he shall elect to work in some district where he has any land; and in such case he may, with the approbation of the commissioners of highways, apply the work assessed in respect to such land in the district in which the same is situated.

Laws 1867, 169. 28 Feb. [29 Apr.] § 1. **29. LABOR COMMUTED IN MONEY.**] Every person liable to work on the highways shall work the whole number of days for which he shall have been assessed; but every such person, other than an overseer of the highways, may elect to commute for the same, or for any part thereof, at the rate of \$1.50 per day; in which case such commutation money shall be paid to the overseer of highways of the district in which the person commuting shall reside, to be applied and expended by such overseer in the improvement of the roads and bridges in the same district.

Laws 1861, 251. 20 Feb. [1 Apr.] § 29. **30. PAYMENT OF THE COMMUTATION.**] Any person intending to commute for his assessment, or any part thereof, shall, within 24 hours after he shall be notified to appear and work on the highways, pay the commutation money for the work required of him by such notice; and the commutation shall not be considered as complete until such money be paid.

*Ibid.* § 30. **31. TEAM MAY BE REQUIRED.**] Every overseer of highways shall have power to require a team or a cart, wagon or plow, with a pair of horses or oxen, and a man to manage them, from any person having the same within his district, who shall have been assessed two days or more, and who shall not have commuted for his assessment; and the person furnishing the same, upon such requisition, shall be entitled to a credit of two days for each day's service therewith.

Laws 1867, 170. 28 Feb. [29 Apr.] § 2. **32. LABOR BY SUBSTITUTE.**] Every person assessed to work on the highways, and named to work, may appear in person, or by an able-bodied man as a substitute, and the person or substitute shall actually work eight hours in each day, under a penalty of 25 cents for every hour such person or substitute shall be in default, to be imposed as a fine on the person assessed.

*Ibid.* § 3. **33. IDLENESS PUNISHED.**] If any person, after appearing, remain idle, or not work faithfully, or hinder others from working, such offender shall, for every offense, forfeit to the town the sum of \$2.

*Ibid.* § 4. **34. PENALTIES IMPOSED.**] Every person so assessed and duly notified, who shall not commute, and who shall refuse or neglect to appear, as above provided, shall forfeit to the town, for every day's refusal or neglect, the sum of \$2. If he was required to furnish a team, carriage, man or implements, and shall refuse or neglect to comply, he shall be fined as follows: 1. For wholly failing to comply with such requisition, \$4. for each day. 2. For omitting to furnish a pair of horses or oxen, \$2. for each day. 3. For omitting to furnish a man to manage the team, \$2. for each day. 4. For omitting to furnish a wagon, cart or plow, \$2. for each day.

Laws 1861, 252. 20 Feb. [1 Apr.] § 34. **35. COMPLAINT FOR PENALTY.**] It shall be the duty of every overseer of highways within six days after any person assessed and

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notified shall be guilty of any refusal or neglect, for which a penalty or fine is prescribed in this act, unless a satisfactory excuse shall be rendered to him for such refusal or neglect, to make complaint, on oath, to any justice of the peace of the county.

*Ibid.* § 35. **36. SUMMONS FOR THE DELINQUENT.**] The justice to whom such complaint shall be made shall forthwith issue a summons, directed to any constable of the county, requiring him to summons such delinquent to appear forthwith before such justice, at some place to be specified in the summons, to show cause why he should not be fined according to law, for such refusal or neglect; which summons shall be served personally, or by leaving a copy at his personal abode.

*Ibid.* § 36. **37. THE FINE — COLLECTION THEREOF.**] If, upon the return of such summons, no sufficient cause shall be shown to the contrary, the justice shall impose a fine, as is provided in this act, for the offense complained of, and shall forthwith issue a warrant, under his hand and seal, directed to any constable of the town where such delinquent shall reside, commanding him to levy such fine, with the costs of proceedings, of the goods and chattels of such delinquent.

*Ibid.* § 37 **38. DISPOSITION OF THE FINE.**] The constable to whom such warrant shall be directed shall forthwith collect the moneys therein mentioned. He shall pay the fine, when collected, to the justice of the peace who issued the warrant, who is hereby required to pay the same to the overseer who entered the complaint, to be by him expended in improving the roads and bridges in the district of which he is the overseer.

*Laws* 1867, 170. 28 Feb. [29 Apr.] § 5. **39. PENALTY SET OFF AGAINST ASSESSMENTS.**] Every penalty collected for refusal or neglect to appear and work on the highways shall be set off against his assessments upon which it was founded, estimating every \$2. collected as a satisfaction for one day's work.

*Laws* 1861, 253. 20 Feb. [1 Apr.] § 39. **40. ACCEPTANCE OF EXCUSE.**] The acceptance by an overseer of any excuse for refusal or neglect shall not, in any case, exempt the person excused from commuting for or working the whole number of days for which he shall have been assessed during the year.

*Laws* 1867, 170. 28 Feb. [29 Apr.] § 6. **41. PER DIEM OF OVERSEERS.**] Each and every overseer of highways shall be entitled to \$1.50 per day, to be paid out of fines and commutation money, for every day he is necessarily employed in the execution of his duties as overseer, the number of days to be accounted to and audited by the commissioners of highways: *Provided*, that when there is no funds from fines and commutations, the commissioners may pay the overseers out of other funds in their hands, if they think proper.

*Ibid.* § 7. **42. ROAD TAX COLLECTED IN LABOR OR MONEY.**] It shall be the duty of overseers of highways to warn all residents of his district against whom a land or personal property road tax is assessed, giving them three days' notice, to work out the same upon the highways; and he shall receive such tax in labor from every able-bodied man or his substitute, at the rate of \$1. per day; and any person or his agent may pay such tax in road labor, at the rate of \$1. per day, and in proportion for a less amount: *Provided*, that any person may elect to pay such tax in money.

*Laws* 1861, 253. 20 Feb. [1 Apr.] § 42. **43. PAYMENT TO BE NOTED.**] It shall be the duty of the overseer of highways, when such land tax has been paid, either in money or labor, to write the word "Paid" distinctly against each name or tract on his list, on which the same has been paid.

*Ibid.* § 43. **44. DELINQUENT ROAD TAX REPORTED.**] Every overseer of highways shall deliver to the supervisor of his town, at least five days previous to the annual meeting of the board of supervisors, the list furnished by the commissioners of highways, containing the land and personal property road tax, with an affidavit thereon, sworn to before the supervisor of the town, or some justice of the peace of the county, that on all tracts of land on such list, opposite which the word "Paid" is not written, such tax is due, and remains unpaid, according to the best of his belief and knowledge.

*Ibid.* § 44. **45. FAILURE THEREIN.**] If any overseer shall refuse or neglect to deliver such list to the supervisor, as provided in the last preceding section, or shall neglect or refuse to make the affidavit, as therein directed, he shall, for every such offense, forfeit the sum of \$5., and also the amount of tax or taxes remaining unpaid, to be recovered by the commissioners of highways of the town, and to be applied by them in improving the roads and bridges of such town.

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*Ibid.* § 45. **46. DUTY OF SUPERVISORS.**] It shall be the duty of the supervisors of the several towns to receive the list of the overseers of highways, when delivered pursuant to the preceding section, and to lay the same before the supervisors of the county.

*Ibid.* § 46. **47.]** It shall be duty of the board of supervisors to cause the amount of such averages [arrearages] of road tax to be levied on the lands so returned, and to be collected in the same manner that the contingent charges of the county are levied and collected, and to order the same, when collected, to be paid over to the commissioners of highways of the town, to be by them applied to the construction of roads and bridges.

*Ibid.* § 47. **48. TIME OF WORKING OUT HIGHWAY LABOR.**] It shall be the duty of every overseer of highways to have at least three-fourths of the road labor assessed in his district worked out or actually expended on the highways, previous to the first day of October in every year.

*Ibid.* § 48. **49. ANNUAL REPORT OF OVERSEERS.**] Every overseer of highways shall, on the second Tuesday next preceding the time of holding the annual town meeting in his town, within the year for which he is elected or appointed, render to one of the commissioners of highways of the town, an account, in writing, containing :

1. The names of all persons assessed to work on highways in the district of which he is overseer.
2. The names of all those who have actually worked on the highways, with the number of days they have actually worked.
3. The names of all those who have been fined, and the sums in which they have been fined.
4. The names of all those who have commuted, and the manner in which the moneys arising from fines and commutations have been expended by him.
- 5.. The amount of uncollected road tax, which he has returned to the supervisor of the town, as required in § 43 of this article.

*Ibid.* § 49. **50. MONEYS UNEXPENDED.**] Every such overseer shall also, then and there, pay to the commissioners all moneys remaining in his hands unexpended, to be applied by the commissioners in making and improving the roads and bridges in the town, in such a manner as they shall direct.

*Ibid.* § 50. **51. OVERSEER NEGLECTING TO ACCOUNT OR PAY OVER.**] If any overseer shall refuse or neglect to render such account, or if, having rendered the same, he shall refuse or neglect to pay any balance which may then be due from him, he shall, for every such offense, forfeit the sum of \$5., to be recovered, with the balance of the moneys remaining in his hands, by the commissioners of highways of the town, and to be applied in making and improving the roads and bridges. It shall be the duty of the commissioners to prosecute for such penalty in every instance in which no return is made.

Laws 1854, 29. 27 Feb. § 14. **52. MATERIALS FOR BRIDGE OR CAUSEWAY.** Consult also Ch. 93 § 41.] The overseers of roads of the several towns are hereby authorized to enter upon any unimproved land most convenient, and to cut and haul away timber, or to quarry and haul rock, gravel, sand or earth which may be necessary for the purpose of building or repairing any bridge or causeway in their respective road districts : *Provided*, that such overseers shall not take away timber already cut, or rock or gravel already quarried for another purpose, without leave from the owner or his agent: *And provided also*, that unless the owner or his agent shall first consent to the cutting of timber or the quarrying of stone, or the taking of gravel, sand or earth, the overseers of roads shall call upon two discreet householders to value the materials about to be used, and if the owner of the materials shall think proper, he or she may choose two other discreet householders, to act with such as may be chosen by the overseer of highways, and if they cannot agree, the four shall choose a fifth as umpire, and the five, or a majority of them, shall make out their award, under their hands and seals, and deposit it with the clerk of the town in which such bridge is situated, who shall file the same in his office. Said award shall be final and conclusive of the amount of damages sustained by such person, and the amount so awarded shall be audited, levied and collected in the same manner provided in the next preceding section of this act, [§ 13 act of 27 Feb. 1854; § 14 of this article] and the overseer of highways shall be authorized and warranted, and is

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Repealed: See ROADS AND BRIDGES § 193.

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hereby fully empowered, to take such materials as aforesaid for the purposes contemplated in this section, as soon as such award shall be made.

*Laws 1867, 171. 28 Feb. [29 Apr.] § 9. 53. DITCH OR DRAIN FOR ROAD.]* The overseers of highways of the several towns are hereby authorized to enter upon any land adjacent to any highway in their respective districts, for the purpose of opening any ditch, drain, necessary sluice or water course, whenever it shall be necessary to open a water course from any highway to the natural water courses, and to dig, open or clean ditches upon said land, for the purpose of carrying off the water from said highways, or to drain any slough or pond on said highway: *Provided*, that unless the owner of such land, or his agent, shall first consent to the cutting of such ditches, the overseer of highways shall call upon two discreet householders to assess the damages which such owner may sustain by reason of the digging or opening of such ditches or drains; and if the owner of such lands shall think proper, he or she may choose two other discreet householders to act with such as may be chosen by the overseer of highways; and if they can not agree, the four shall choose a fifth, as umpire, and the five, or a majority of them, shall make out their award, under their hands and seals, and deposit with the clerk of the town in which said highway is situated, who shall file the same in his office. Such award shall be final and conclusive of the amount of damages sustained by such person; and the amount so awarded shall be audited, levied and collected in the same manner provided in § 14, Art. 17 of the township organization law; and the overseer of highways shall be warranted and is hereby empowered to enter such lands, and dig, open and clean such drains, ditches and water courses as aforesaid, for the purposes contemplated in this act, and is further authorized to use and employ the road labor and money of his district for such purposes.

*Laws 1861, 255. 20 Feb. [1 Apr.] § 51. 54. PETITION FOR ALTERING OR DISCONTINUING A ROAD.]* The commissioners of highways may alter or discontinue any road, or lay out any new road, when petitioned by any number of legal voters, not less than 12, residing within three miles of the road so to be altered, discontinued or laid out. Said petition shall set forth, in writing, a description of the road, and what part thereof is to be altered or discontinued; and if for a new road, the names of owners of lands, if known, over which the road is to pass, the points at which it is to commence, its general course, and the place at or near where it is to terminate.

*Ibid. § 52. 55. PETITION TO BE POSTED.]* Whenever any number of legal voters determine to petition the commissioners of highways for the alteration or discontinuance of any road, or laying out of any new road, they shall cause a copy of their petition to be posted up in three of the most public places in the town, 20 days before any action shall be had in reference to said petition.

*Ibid. § 53. 56. EXAMINATION BY THE COMMISSIONERS.]* Whenever the commissioners of highways shall receive a petition, in compliance with the two preceding sections, they shall, or a majority of them, within 10 days after the expiration of the 20 days required in § 2 [52] of this article, personally examine the proposed alteration, discontinuance or route for the new road proposed to be laid out, and shall hear any reasons that may be offered for or against altering, discontinuing or laying out the same. If they shall be of opinion that such alteration, discontinuance or laying out shall be necessary and proper, and that the public interest will be promoted thereby, they shall grant the prayer of the petitioners, as hereinafter provided.

*Ibid. § 54. 57. REASONS FOR AND AGAINST.]* The commissioners of highways, before determining to lay out any new road, or to alter or discontinue any old one, shall fix upon a time and place when and where they will meet to hear any reasons that may be offered for or against altering, discontinuing or laying out the same; and they shall cause written notices thereof to be posted up in three of the most public places in the town, at least eight days previous to the time of meeting.

*Ibid. § 55. 58. SURVEYS AND PLATS.]* Whenever the commissioners of highways shall determine to lay out any new road, or alter any old one, they shall cause a survey to be made, by a competent surveyor, who shall make a report to them of such survey, accompanied with a plat, particularly describing the route, by metes and bounds, courses and distances, and also the land over which the road passes. They shall incorporate such survey, accompanied with a plat, in an order, to be signed by them, declaring such road, so altered or laid out, to be a public highway; which order, together with the petition and

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report of the surveyor, shall be deposited with the town clerk, who shall note the time of filing the same. In case the commissioners shall determine not to alter, discontinue or lay out any road, in accordance with any petition to them presented, they shall note the fact on the back of said petition, and deposit it with the town clerk, who shall note the time of filing the same.

*Laws 1861, 130, 22 Feb. § 1.* **59. SURVEYS AND PLATS BY THE COUNTY SURVEYOR.]** It shall be lawful for the board of supervisors in any county to empower and authorize the county surveyor of said county, under the direction of the highway commissioners of each town, to survey, locate and plat the public highways of each town; and when such plat shall have been completed and approved by the highway commissioners, it shall be filed in the office of said town clerk, together with the minutes and reports of such survey, and be carefully kept by such town clerk as a part of his official records; the expenses of such proceedings to be paid out of the road fund, by each town.

*Ibid. § 2.* **60.]** The said plat, minutes and report, or a certified copy of the same, under hand and seal of the town clerk, shall be *prima facie* evidence that the road or roads therein described have been lawfully constituted a public highway.

*Ibid. § 3.* **61.]** The provisions of this act shall apply to ratify and confirm all proceedings heretofore had by any county or commissioners of highways and surveyor, in accordance with the provisions of the first section of this act, or by order of the town authorities.

*Laws 1861, 256. 20 Feb. [1 Apr.] § 56.* **62. DAMAGES FOR OPENING OR ALTERING ROADS.]** The damages sustained by reason of the laying out, or opening, or altering any road, may be ascertained by the agreement of the owners and the commissioners of highways; and unless such agreement be made, or the owners of the land shall, in writing, release all claims to damages, the same shall be assessed in the manner hereinafter prescribed, before such road shall be opened, or worked, or used. Every agreement and release shall be filed in the town clerk's office, and shall forever preclude such owners of such lands from all further claims for such damages. In case the commissioners and owners of land claiming damages cannot agree, it shall be the duty of the commissioners to assess the damages at what they may deem just and right, to each individual claimant with which they cannot agree, and deposit a statement of the amount of damages so assessed to each individual with the town clerk, who shall note the time of filing the same. It shall be the duty of commissioners, in all cases of assessing damages, to estimate the advantages and benefits the new road or alteration of any old one will confer on complainants for the same, as well as the disadvantages.

*Ibid. § 57.* **63. ORDER TO BE FILED.]** It shall be the duty of the town clerk, whenever any order of the commissioners for laying out, altering or discontinuing a road shall be received by him, to carefully file the same; and the time hereinafter limited for appealing from such order shall be computed from the time of filing the same; but the town clerk shall not record such order until a final decision is made, and not then unless such order is confirmed.

*Ibid. § 58.* **64. ROAD VACATED OR RE-LOCATED.]** Whenever it shall be represented to the board of supervisors of any county at any regular or special meeting, by a petition of at least 35 legal voters of the county, residing within three miles of any state road, that said road, or any portion thereof, within said county, is useless and burthen-some, and that the public interest requires that the same, or any particular portion thereof, setting forth what portion, should be vacated, or that the public interest requires the re-location of said road, or any part thereof, setting forth what part, said board shall proceed and appoint three suitable persons of said county as viewers, to view said road, who shall, within a reasonable time, and after being duly sworn to perform their duties faithfully and impartially, proceed to examine said road, and particularly that portion thereof in question, and make report, in writing, of their doings, at the same or next meeting of the board of supervisors.

*Ibid. § 59.* **65. VIEWERS TO EXAMINE AND REPORT.]** When the petition is for the vacation of the road, the viewers shall proceed to ascertain the fact, as to whether the road is useless and burthen-some, and if they find such to be the fact, they shall so report. If the petition is for the re-location of the road, they shall proceed to inquire whether the public interest requires such re-location, and shall report to the board accordingly, as they

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shall find the facts to be. If they shall find that the public interest requires such re-location they shall re-locate the line of said road, as in their opinion is required, and cause a survey thereof to be made by a competent surveyor, and shall accompany their report with an accurate plat and survey of such re-location. On receiving the report of said viewers, the board of supervisors may, in their discretion, order the vacation or re-location of said road, agreeably to the report of the viewers.

*Ibid.* § 60. **66. NOTICE OF PETITION FOR VACATION OR RE-LOCATION.]** No petition for the vacation or re-location of any state road shall be entertained or the prayer thereof granted by the board of supervisors, unless public notice of the presentation of such petition shall be given, at least 20 days prior to the presentation, by posting up notices in at least three public places on the route of the road and on the door of the court house, and also on the door of the county clerk's office, should it be kept in a separate building.

*Ibid.* § 61. **67. COMPENSATION ALLOWED — DEPOSIT REQUIRED.]** The viewers, and persons they may necessarily employ to aid them, under the provisions aforesaid, shall be allowed such reasonable compensation as the board of supervisors may deem just, to be paid out of the county treasury; and the board shall have power, in their discretion, to require the applicants for the vacation or re-location of any state road to deposit with the clerk a sufficient sum of money to pay the expenses of viewing the same, in case the report of the viewers shall be adverse to the prayer of the petition, and to be returned, in case their report shall be favorable.

*Ibid.* § 62. **68. ROADS TO BE FOUR RODS WIDE.]** All public highways, laid out by order of the commissioners of highways or supervisors, on appeal, shall not be less than four rods wide.

*Ibid.* § 63. **69. PUBLIC HIGHWAYS — ALTERING STATE ROADS.]** The public roads, now existing by law, are declared the public highways of the town in which such roads shall lay, and this act shall not be construed as conferring any power on the commissioners of highways to alter state roads now or hereafter existing by law.

*Ibid.* § 64. **70. FIVE YEARS THROUGH UNINCLOSED LANDS.]** All roads laid out by authority of the county commissioners or county court in counties adopting township organization prior to the time of adopting township organization, and which have been opened and traveled as highways for the space of five years from the date of laying out or remained open through uninclosed land for that length of time, are hereby declared to be public highways, and the order of said county commissioners or county court, entered of record, establishing such roads, shall be evidence of the regularity of all the proceedings in laying out such roads anterior to such order.

*Ibid.* § 65. **71. RE-SURVEY OF ROAD.]** It shall be the duty of the commissioners of highways, on application of 12 freeholders residing within three miles of any such road, to proceed and cause the same to be re-surveyed and more perfectly described, having posted notices of their intention to do so, in three public places in the neighborhood of the road, for at least 10 days prior thereto.

*Ibid.* § 66. **72. MANNER OF MAKING SUCH RE-SURVEY — REPORT THEREOF.]** In re-surveying any such road the commissioners of highways shall consult the original field notes or survey thereof, if the same can be produced, and shall hear any and all other evidence, written or parol, which may be offered in relation to the original location of such road, in cases where there shall be any doubts as to the location and the time and manner of traveling such road; and having heard such evidence, they shall proceed and re-establish the line of said road, in accordance with the evidence before them, and shall make a correct plat thereof, with a certificate of their doings in the premises, embodying their survey of the road and their determination in the premises, which they shall file in the town clerk's office; and which action of the commissioners of highways shall be final and conclusive, as to the location of such road, and the time and manner of traveling the same.

*Ibid.* § 67. **73. EFFECT OF THE ORDER.]** The laying out and establishing of a highway, by the commissioners of highways, on the route of any road laid and established by county authority, as aforesaid, shall not operate to vacate or discontinue the road before laid out and established, unless the order of the commissioners shall so declare; and such vacation or discontinuance shall likewise have been petitioned for.

*Ibid.* § 68. **74. APPEALS IN ROAD CASES.]** Any person or persons, being owners

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of or agents for any tract of land upon the route or line of or over which any highway altered, discontinued or laid out shall run, feeling themselves aggrieved by any order made by the commissioners of highways, may appeal from the same, at any time, within 30 days after the filing of such order in the town clerk's office. Such appeal shall note the time that such order was filed, and shall be made to three supervisors of the county, neither of whom shall be a resident of the town in which said highway was situated. All persons who desire to make an appeal from such order shall act in concert and make their appeal to the same three supervisors.

*Ibid.* § 69. **75. APPEAL IN WRITING — REASONS STATED.]** Every such appeal shall be in writing, and signed by the party or parties appealing. It shall briefly state the ground upon which it is made, and whether it is brought in relation to damages assessed by the commissioners of highways, or in relation to the alteration, discontinuance or laying out of the road, or in relation to both, or whether it is brought to reverse entirely the determination of the commissioners, or only to reverse a part thereof, and in the latter case it shall specify what part.

*Ibid.* § 70. **76. ADDRESSED TO THE TOWN CLERK — BOND REQUIRED.]** The appeal shall be addressed to the town clerk of the town wherein the road in question shall be and filed with him within the time required for taking appeals; and in case there shall be no town clerk in the town, then such appeal may be addressed to and filed with the supervisor or any justice of the peace of said town; and upon the filing of a bond by the party taking such appeal, executed to the supervisor of the town, in sufficient amount, and with sufficient sureties, to be approved by said town clerk, supervisor or justices of the peace, conditioned to pay all costs arising from such appeal, in case the determination of the commissioners of highways in the premises shall not be reversed, said town clerk, supervisor or justice of the peace, as the case may be, shall at once proceed to select, at his discretion, three supervisors of the county, neither of whom shall be a resident of the town in which the highway is situated, for the hearing of said appeal, which supervisors shall proceed to hear and determine said appeal, as hereinafter provided.

*Ibid.* § 71. **77. SUIT ON THE BOND.]** In case the condition of the bond provided in the preceding section shall not be complied with in 30 days after the appeal shall be determined, the supervisor shall bring suit thereon, before some justice of the peace of the county, who shall have jurisdiction in such cases without regard to the amount of the bond, and, when collected, the amount shall be paid to the several persons interested.

*Ibid.* § 72. **78. SELECTION OF THREE SUPERVISORS — NOTICE THEREOF.]** The town clerk, supervisor or justice of the peace, as the case may be, in making the selection of supervisors, as aforesaid, shall have due regard to the interests of the persons interested, and shall, upon making such selection or nomination, give a certificate of the same, which shall be delivered to the person taking such appeal; which certificate said person shall cause to be delivered to one of the supervisors therein named, within 10 days from the time of filing such appeal with the town clerk or other officer, as aforesaid, and shall also, within the same time, cause a notice of such appeal to be given to the other two supervisors named in said certificate.

*Ibid.* § 73. **79. TIME OF HEARING TO BE FIXED.]** It shall be the duty of the supervisors to whom the appeal is made, as soon as may be convenient, after the expiration of 30 days from the filing of the order in the town clerk's office from which the appeal is made, to agree upon a time when and where they will meet to consider the same; which shall be at some place deemed convenient, at or near the road to be examined.

*Ibid.* § 74. **80. NOTICES GIVEN BY PARTY APPEALING.]** The person or persons making the appeal shall cause a notice, in writing, of the time and place agreed on by the three supervisors when and where they will meet, to be served on each of the commissioners of highways from whose order they appealed, and also on at least three of the petitioners who petitioned in relation to such road; which notices shall be served at least eight days before the time mentioned therein, by delivering one to each commissioner, or leaving one at each of their dwelling houses; and in like manner shall the notices be served on each of the three petitioners.

*Ibid.* § 75. **81. PROCEEDINGS BEFORE THE THREE SUPERVISORS — THEIR DECISION.]** It shall be the duty of supervisors to convene at the time and place mentioned in the notice, and to hear the proofs and allegations of the parties. They shall have power

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to issue process, to compel the attendance of witnesses, and may adjourn from time to time, as may be necessary. Their decision, or that of any two of them, shall embrace the whole matter in controversy. They shall first consider the propriety and expediency of locating, altering or discontinuing the road; secondly, the subject of damages, if such subject was embraced in the appeal under which they are acting; and they shall fix upon the amount of damages which, in their judgment, is right and just, to be paid to each person claiming damages; but no person shall be entitled to re-assessment of damages, unless his or her name appears in the appeal in reference to that subject. The supervisors shall be governed by the same rules, in assessing damages, as is provided in § 56 of this article, for the government of commissioners of highways in such case.

*Ibid.* § 76. **82. APPEALS CONCERNING ALTERATION OR DISCONTINUANCE.]** Upon the refusal of the commissioners of highways to alter or discontinue a road, or lay out any new road, petitioned for as provided in § 51 of this article, any one of the petitioners may appeal from such determination in the same manner and subject to the same provisions and restrictions as relates to persons who feel themselves aggrieved by a determination of the commissioners to alter or discontinue a road, or lay out a new road.

*Ibid.* § 77. **83. POWERS AND DUTIES OF THE THREE SUPERVISORS.]** Where an appeal shall have been made from the determination of the commissioners refusing to lay out, alter or discontinue a road, and the supervisors shall reverse such determination, such supervisors shall alter, discontinue or lay out the road applied for, as the case may be, and in doing so shall proceed in the same manner in which commissioners of highways are directed to proceed in the like cases. Such road shall be opened by the commissioners of the town, in the same manner as if laid out by themselves.

*Ibid.* § 78. **84. APPEAL IF ROAD BE ON TOWN LINE.]** Appeals may be had from the determination of commissioners of highways of two adjoining towns, in altering, discontinuing, laying out or refusing to lay out any road upon the line between said towns, which shall be granted and conducted in all respects as in other cases, except that the appeal shall be addressed to the town clerks of both towns, or other officers of each town, as necessity may require. Each clerk shall select one supervisor, and the party appealing may select the other. Said clerks shall jointly certify the facts of such selection. The supervisors so selected shall proceed, as near as may be, as provided in other cases. The bond for costs, in such case, may be executed to the supervisor of either town. Duplicate copies of all orders and proceedings in such cases, shall be filed with the town clerks of each town.

*Ibid.* § 79. **85. ONE SUPERVISOR FAILING TO ATTEND.]** In case any one of the supervisors to whom such application shall have been made shall become unable to attend before the determination of such appeal, it shall be the duty of the remaining supervisors named therein to associate with themselves another of the supervisors of the same county, who shall act with them in all subsequent proceedings, in the same manner as if he had been originally named in such appeal. In case the term of office of any supervisor shall expire before the determination of such appeal, he shall continue to act in the premises the same as if he had been re-elected.

*Ibid.* § 80. **86. FEES ALLOWED.]** Every such supervisor shall be entitled to receive \$1.50 for every day employed in hearing and deciding such appeal, or when necessarily engaged in reference to the same; and the town clerk, supervisor or justice of the peace shall be entitled, for giving a certificate of an appeal, 50 cents, to be paid by the party appealing, where the determination of the commissioners of highways shall be affirmed; but where it is reversed, to be charged against and paid by the town.

*Ibid.* § 81. **87. SUPERVISORS' DECISION FINAL FOR A YEAR.]** After the action of the supervisors upon an appeal from the decision of the commissioners of highways, in laying out, vacating or altering any road, no application shall be entertained by commissioners for the re-laying, vacation or alteration of the same road within one year from the date of the determination of the supervisors thereupon.

*Ibid.* § 82. **88. ACCOUNT OF THE DAMAGES TO BE FILED AND RETURNED.]** The amount of damages as finally settled by the three supervisors or as agreed on by the commissioners of highways, together with all charges of officers and other persons employed in laying out, altering or discontinuing any road, shall be rendered by the commissioners of highways to the board of town auditors, with the amount of damages and charges due

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each individual; which account shall be audited by said board, certified to and deposited with the town clerk. The town clerk shall make out the aggregate amount of such damages and charges, with his certificate thereto attached, and deliver the same to the supervisor of the town previous to the annual meeting of the board of supervisors.

*Ibid.* § 83. **§9.** PETITION TO BOARD OF SUPERVISORS.] After a final decision by any three supervisors to whom any road difficulty has been appealed, if in the opinion of the supervisor, town clerk, the justices of the peace and the commissioners of highways, or any five of them; the damages are manifestly too high, and that in providing for the payment thereof, an oppressive tax will have to be levied on the property of said town, they may petition the board of supervisors, at any meeting of said board held within six months after such decision, for relief, either from the whole or a part of the damages. The board shall hear the reasons for and against granting such relief, and if a majority of them shall be of opinion that the town should be relieved from the whole amount of damages, then and in that case the opening of said road shall be postponed until the damages or a major part thereof, are in some other way provided for than by levying a tax upon the property of the town.

*Ibid.* § 84. **§10.** ROADS — COUNTY AND TOWN LINES.] When the commissioners of highways of any town shall disagree with the commissioners of any other town of the same county, relating to the laying out of a new road or the alteration of an old road, extending into both towns, or when the commissioners of a town in one county shall disagree with the commissioners of a town in another county relative to the laying out of a new road or altering an old road which shall extend into both counties, the commissioners of both towns shall meet together at the request of either disagreeing commissioner, and make their determination upon such subject of disagreement.

*Ibid.* § 85. **§11.** ROAD ON TOWN LINES.] Whenever the commissioners of highways of any town receive a petition praying the location of a new road, alteration or discontinuing of an old one, upon the line between the two towns, such road shall be laid out, altered or discontinued by two or more of the commissioners of highways of each of said towns, either upon such line or as near thereto as the convenience of the ground will admit; and they may so vary the same, either to the one or to the other side of such line, as they may think proper. The petition in such cases shall be addressed to the commissioners of the two towns jointly, and presented to each in duplicate.

*Ibid.* § 86. **§12.** WORKING SUCH ROADS.] It shall be the duty of the said commissioners, when there may be such highway, to divide it into two or more road districts in such manner that the labor and expense of opening, working and keeping in repair such highway through each of the said districts, may be equal as near as may be, and to allot an equal number of the said districts to each of the said towns.

*Ibid.* § 87. **§13.**] Each district shall be considered as wholly belonging to the town to which it shall be allotted, for the purpose of opening and improving the road and keeping it in repair; and the commissioners shall cause such highway, and the petition and allotment thereof to be recorded in the office of town clerk, in each of their respective towns.

*Ibid.* § 88. **§14.**] All highways heretofore laid out upon the line between any two towns, shall be divided, allotted, recorded and kept in repair in the manner above directed.

*Ibid.* § 89. **§15.** ROAD ON STATE LINE.] Highways may be laid out and opened upon the line between this and any adjoining state, as provided in the five preceding sections, whenever the laws of such adjoining states shall be applicable.

*Ibid.* § 90. **§16.** OPENING A ROAD — NOTICE REQUIRED.] Whenever the commissioners of highways shall have laid out any public highway through any inclosed, cultivated or improved lands, in conformity with the provisions of this act, and their determination shall not have been appealed from, they shall give the owner or occupant of the land through which such road shall have been laid, 60 days' notice in writing to remove his fences. If such owner does not remove his fences within 60 days, the commissioners shall cause such fences to be removed, and shall direct the road to be opened and worked; and such owner shall forfeit to the town the sum of 50 cents a day for every day he shall permit his fence to remain after the expiration of said 60 days.

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*Ibid.* § 91. **97. AFTER APPEAL DECIDED.]** If the determination of the commissioners shall have been appealed from, then the 60 days' notice shall be given after the decision of the supervisors upon such appeal shall have been filed in the office of the town clerk of the town.

*Ibid.* § 92. **98. OPENED WITHIN FIVE YEARS.]** All highways laid out by order of the commissioners or supervisors, on appeal, shall be opened within five years from the time of laying out the same. If not opened within the time aforesaid the same shall be decreed [deemed] to be vacated.

*Ibid.* § 93. **99. PRIVATE ROADS.]** Private roads may be laid out by the commissioners of highways, from the dwelling or plantation of individuals to any public road, or from one public road to another, or from one lot of land to another, or from a lot of land to the highway; and whenever any individual desires to have a private road laid out as aforesaid, such individual may apply to the commissioners of highways to lay out such private road, and the commissioners shall proceed to examine into the merits of such application, and be governed in their proceedings by the rules and regulations prescribed in this act in relation to public roads. The damages assessed in consequence of the laying out of such private road, shall be paid by the person applying for the same, and when paid, the persons applying therefor, their heirs and assigns, shall have the right to open said private road, and shall have the right of way upon the same forever thereafter, but not to be converted to any other use or purpose than that of a road.—[This section is repugnant to § 8 Art. 13 of the constitution of 1848. *Nesbitt v. Trumbo et al.*, 39 Ill. 110. *Creal v. Crossley*, 40 Ill. 175. Lawrence, J. dissenting, in both cases. The legislature is powerless to afford the means by which a person can procure the right of way over another person's lands without his consent. *Nesbitt v. Trumbo et al.*, 39 Ill. 110. Lawrence, J. dissenting.]

*Laws* 1851, 77. 17 Feb. [1 Apr.] § 29. **100. WIDTH OF PRIVATE ROAD.]** \* \* \*  
Private roads shall not be more than three rods wide.

*Laws* 1861, 264. 20 Feb. [1 Apr.] § 94. **101. INJURIES AND OBSTRUCTIONS.]** If any person shall obstruct any public highway, by falling a tree or trees across the same, by encroaching upon or fencing up the same, or by placing any other obstruction therein, or by digging a ditch across the same, he shall forfeit to the town for every such offense, a sum not exceeding \$10., and a sum not exceeding \$1. for every day he shall suffer such obstruction to remain after he shall have been ordered to remove the same by a commissioner or overseer of highways of the town: *Provided*, that this section shall not be construed to extend to any person who shall lawfully cut down any tree for use, and who shall immediately remove the same out of the road, nor to any person through whose land a highway shall run, who shall dig a ditch or drain across such highway and shall keep the same in good repair.

*Ibid.* § 95. **102. INJURING BRIDGE OR GUIDE BOARD.]** Any person who shall purposely remove any plank or timber from any bridge or causeway on any public highway, such person shall be deemed guilty of a misdemeanor, and shall be liable to indictment therefor, and punished by imprisonment not exceeding six months, and shall also forfeit to the town a sum not less than \$5. nor exceeding \$100.; and any person who shall destroy or deface any guide board, post or mile stone on any public highway, he shall forfeit to the town a sum of not less than \$5. nor more than \$25.

*Ibid.* § 96. **103. ACTIONS FOR PENALTIES.]** All penalties and forfeitures provided in and by this act, where the same shall not exceed \$100., may be sued for and recovered before any justice of the peace of the proper county, upon whom jurisdiction in such cases, is hereby conferred, and all proceedings for the recovery of any such penalty or forfeiture shall be in the name of the town to which the same shall be forfeited, unless otherwise provided by this act.

*Ibid.* § 97. **104. WHO MAY BRING SUIT.]** In all cases where a penalty or forfeiture shall be incurred by any person under the provisions of this act, and no prosecution for the same shall be commenced by the town to which the same shall be due, or by the officer or agent whose duty it is to prosecute for the same, within 60 days from the time such penalty or forfeiture shall be incurred, the same may be sued for by any elector of the town, in an action *qui tam*, one-half of the amount recovered to be paid to the person who shall sue therefor and the other half to the town.

## Art. XVIII. Miscellaneous Provisions.

## ART. XVIII. MISCELLANEOUS PROVISIONS.

§ 1. *The Election Precincts.*  
 § 2. *Of Suits for Taxes.*  
 § 3. *Abandoning T. Organization.*  
 § 4. *Time of the Change.*

§ 5. *New Officers Elected.*  
 § 6. *First Commissioners of Highways.*  
 § 7. *Terms Fixed by Lot.*  
 § 8. *Commissioner Not Attending.*

*Laws 1861, 265. 20 Feb. [1 Apr.]* § 1. **1. ELECTION PRECINCTS.**] Each town, acting under township organization, shall constitute an election precinct, and the supervisor, assessor and collector shall be, ex officio, judges of elections. [Judges of elections elected, Ch. 37 § 96.] The supervisor, or in case of his absence, the town clerk shall post up notices of general elections, in like manner as is now required of sheriffs and county clerks under the general laws of this state, in counties not adopting township organization. The place of holding elections shall be at some central and convenient place in the town, to be fixed by the supervisors or town clerk, as the case may be.

*Ibid. § 2. 2. SUITS FOR TAXES.*] The county judge sitting as a county court, without associates, in counties acting under township organization, shall have the same jurisdiction of suits brought by collectors for taxes on delinquent lands and town lots as the county courts have under existing laws; and all acts of county courts heretofore done in suits for taxes on delinquent lands and town lots, are hereby legalized.

*Ibid. § 4. 3. ABANDONING TOWNSHIP ORGANIZATION.*] Upon the petition of 50 legal voters of any county acting under township organization, it shall be the duty of the county clerk, upon the filing of such petition with him, to cause notices to be posted up in three of the most public places in each town of such county, at least 20 days previous to the next annual town meeting, that the question of township organization under this act will be voted upon. At such meeting said vote shall be taken by ballot, to be written or printed, or partly written and partly printed, For township organization, or Against township organization, and shall be canvassed and returned in like manner as votes for state and county officers.

*Ibid. § 5. 4. TIME OF THE CHANGE.*] If it shall appear, by the returns of said election, that a majority of all the voters voting at such election have voted against township organization, then the county so voting shall cease to act under such organization, from and after the election and qualification of such county officers as are provided for in such counties as have never adopted township organization.

*Ibid. § 6. 5. NEW OFFICERS ELECTED.*] At the next general election after the voters of any such county have determined against township organization, there shall be an election for all the officers required by law in counties that have never adopted township organization, except such officers as may have been previously elected and are entitled to hold over; and notice of such election shall be given as is now provided by law.

*Ibid. § 7. 6. FIRST COMMISSIONERS OF HIGHWAYS.*] At the first town meeting in each town, under this act, in counties that have or may hereafter adopt township organization, there shall be elected three commissioners of highways, one of which shall hold his office for one year, one for two years, and one for three years. Said commissioners shall meet at the office of the town clerk, at a day and hour to be fixed by said clerk, within 10 days after the town meeting, of which he shall give each commissioner three days' notice, when and where said commissioners shall meet to determine their respective terms of office.

*Ibid. § 8. 7. TERMS FIXED BY LOT.*] At such time and place, the town clerk shall prepare three separate pieces of paper, as near alike as practicable, on the first of which shall be written the number 1, on the second the number 2, and on the third the number 3, and he shall cause them to be folded up alike, as near as practicable, and deposited in a box; and the persons elected commissioners shall severally draw one of the said pieces of paper, and the term of office of each [of] such commissioners shall be determined by such drawing, and each shall hold his office for the number of years corresponding with the number by him drawn.

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Art. XVIII. Miscellaneous Provisions.

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*Ibid.* § 9. **8. COMMISSIONER NOT ATTENDING.]** If any person elected a commissioner shall neglect to attend at the time and place specified in the preceding section, the town clerk shall select some qualified elector of the town to draw for said commissioner, in the manner prescribed in the preceding section ; and the number drawn by such elector shall be a lawful determination of the term of office of said commissioner.

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## NOTE.

In the article on "Roads, Highways and Bridges" we have endeavored to mark the sections repealed by the Road Law of 1872, or superseded by the Township Organization acts of the same session. But the result is very unsatisfactory. There is much more repealed than is so marked. Just how much more, it seems difficult to say. The confusion on this subject produced by all the amendments from 1845 to 1869 was not so bewildering as the present chaos.

## TOWNSHIP ORGANIZATION.

<b>II. POWER OF TOWNS.</b> § 4. <i>Sale of Real Estate.</i> § 5. <i>Manner of Selling.</i> § 6. <i>Execution of the Deeds.</i>	§ 81. <i>Hearing before three Supervisors.</i> § 99. <i>Opening Private Roads.</i> § 100. <i>Roads: All Declared Public.</i> <span style="padding-left: 20px;"><i>Bridge between Towns.</i></span> § 105. <i>Petition of 12 Freeholders.</i> § 106. <i>Estimate: Expenses: Apportionment.</i> § 107. <i>Notice of an Election.</i> § 108. <i>Voting on Bridge Question.</i> § 109. <i>Ratification: Joint Contract.</i> § 110. <i>Tax Levied: Bonds Issued.</i> § 111. <i>Form of Such Bonds.</i> § 112. <i>Bonds Negotiated: Proceeds Used.</i> § 113. <i>New Official Bond Required.</i> § 114. <i>Control of the Bridge.</i>
<b>IV. POWER OF THE ELECTORS.</b> § 2. <i>List of Officers Chosen.</i> <span style="padding-left: 20px;"><i>Former Special Acts Repealed.</i></span>	
<b>XIV. BOARD OF SUPERVISORS.</b> § 1. <i>Annual and Special Meetings.</i>	
<b>XVII. ROADS, HIGHWAYS AND BRIDGES.</b> § 56. <i>Examination by the Commissioners.</i> § 62. <i>Damages for Opening Road.</i> <span style="padding-left: 20px;"><i>Hearing by the Jury.</i></span> <span style="padding-left: 20px;"><i>Mode of Assessing Damages.</i></span>	

### ART. II. POWER OF TOWNS.

*An act to authorize towns to sell and convey real estate. Approved 2 April 1872. In force 1 July 1872.*

**4. SALE OF REAL ESTATE.]** § 1. The legal voters of any town organized under the township organization law which owns real estate in its corporate capacity, may, by the adoption of resolutions to that effect, at the time appointed for the transaction of the general business of the town at the annual town meeting, authorize the supervisor to sell and convey any such real estate of the town not deemed necessary for public use, upon such terms and conditions as may be prescribed in such resolution ; and may authorize the proceeds of such sale to be applied to such corporate purposes as may be deemed expedient.

**5. MANNER OF SELLING.]** § 2. Whenever such sale is so authorized the supervisor may sell such real estate, in behalf of the town, at public vendue, to the highest bidder for cash, or upon credit, as he may have been directed at the town meeting, after having given at least three weeks' notice of the time, place and terms of such sale, by posting not less than five notices thereof at public places within the town, and by causing a copy of such notice to be published in some newspaper published within the county.

**6. EXECUTION OF DEEDS.]** § 3. The supervisor shall have power to make and execute, in behalf of the town, all necessary deeds to carry such sale into effect, and to sign such deeds in his official capacity, and affix thereto the corporate seal of the town (if any), and if the town has no corporate seal, then to affix a scroll to such deeds in the place of a seal. Any deed so executed in pursuance of such sale, shall convey to the purchaser all the right and title of the town in and to the lands therein described ; and the recitals in such deed showing the authority of the supervisor to make the same, in compliance with the provisions of this act, shall be *prima facie* evidence of the facts therein recited, showing such authority.

### ART. IV. TOWN MEETINGS: POWER OF ELECTORS.

*An act to amend the law concerning township organization. Approved 12 April 1871. In force 1 July 1871.*

§ 1. Section 2 of article iv. of "An act entitled 'An act to reduce the act to provide for township organization,' and the several acts amendatory thereof, into one act, and to amend the same," approved 20 February, 1861, \* \* is hereby re-enacted, and the provisions thereof extended to each and every county of the state which has adopted township organization, any special or local law to the contrary notwithstanding. Said section is as follows :—

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**2. OFFICERS TO BE CHOSEN.]** § 2. There shall be chosen, at the annual town meeting in each town, one supervisor, one town clerk, one assessor, one collector, one commissioner of highways, two constables, two justices of the peace, as many overseers of highways as there are road districts in the town, and so many pound-masters as the electors may determine: *Provided*, that justices of the peace and constables shall be elected only once in four years, except to fill vacancies; and such justices and constables shall be successors to precinct justices and constables: *Provided further*, that any town having 800 or more legal voters shall be entitled to elect one additional supervisor, styled assistant supervisor.

An act entitled "An act to change the time of electing certain officers in a county therein named," approved 28 February 1867, which applies to Wayne county, and an act entitled, "An act to reduce the number of supervisors in Clay county," approved 8 March 1869, and all other acts in conflict herewith, are hereby repealed; but nothing herein is intended to repeal any local or special law providing for the election of supervisors as members of the county board, in incorporated towns and cities.

## ART. XIV. THE BOARD OF SUPERVISORS.

§ 2. Section 1 of article xiv. of an act entitled "An act to reduce the act to provide for township organization, and the several acts amendatory thereof, into one act, and to amend the same," approved 20 February 1867, \* \* is hereby amended so as to read as follows:

**1. ANNUAL AND SPECIAL MEETINGS.]** § 1. The county boards of the several counties in this state that have or may adopt township organization, shall be composed of the supervisors and assistant supervisors of the organized townships thereof, and supervisors of incorporated towns and cities. Such supervisors shall meet annually in their respective counties, for the dispatch of business as a board of supervisors; they may also hold special meetings at such times and places as they may find convenient, and shall have power to adjourn from time to time, as they may deem necessary.

## ART. XVII. ROADS, HIGHWAYS AND BRIDGES.

*An act to amend the law concerning township organization. Approved 31 Jan. 1872. In force 1 July 1872.*

§ 1. Section 53 of article xvii. of "An act to reduce the act to provide for township organization, and the several acts amendatory thereof, into one act, and to amend the same," approved 20 February 1861, \* \* is hereby amended so as to read as follows:—

**56. EXAMINATION BY THE COMMISSIONERS.]** § 53. Whenever the commissioners of highways shall receive a petition in compliance with the two preceding sections, they shall, or a majority of them, within 20 days after the expiration of the 20 days required in § 52 of this article, personally examine the proposed alteration, discontinuance or route for the new road proposed to be laid out, and shall hear any reasons that may be offered for or against altering, discontinuing or laying out the same. If they shall be of the opinion that such alteration, discontinuance or laying out shall be necessary and proper, and that the public interest will be promoted thereby, they shall grant the prayer of the petitioners, as hereinafter provided.

§ 2. Section 56 of article xvii. of the above mentioned act \* \* is hereby amended, so as to read as follows:—

**62. DAMAGES FOR OPENING OR ALTERING.]** § 56. The damages sustained by reason of the laying out, or opening, or altering any road, may be ascertained by the agreement of the owners and the commissioners of highways, and unless such agreement be made, or the owners of the land shall, in writing, release all claims to damages, the same shall be assessed in the manner hereinafter prescribed before such road shall be opened, or worked, or used. Every agreement and release shall be filed in the town clerk's office, and shall forever preclude the owners of such lands from all further claims for such damages. In case the commissioners of highways and owners of lands claiming damages cannot agree, it shall be the duty of the commissioners to apply to a justice of the peace of the town for the selection

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of a jury to assess such damages. The commissioners shall give at least three days' notice of such application, stating the time when, and the justice to whom, the same will be made, by leaving a copy thereof at the residence of the owner or occupant of the land; if the land is unoccupied, then by posting notices in three public places of the town for at least three days previous to such application.

**HEARING BY THE JURY.]** When application is made to the justice as aforesaid, he shall issue a summons for a jury of six persons (or twelve, if a less number be objected to by either party before the precept is issued), having the qualification of jurors, to appear before such justice at a time to be fixed by him, not less than five days nor more than ten days from the time such application was presented to him to assess such damages, which may be served by any constable of the town, or by any person whom said justice may designate. The jury shall be sworn by the justice to discharge their duties faithfully and impartially as such jury. After being sworn, the jury shall hear such lawful evidence touching the question of damages as may be presented to them, and shall also, in a body, visit and examine the lands in question, and assess the damages at what they may deem just and right to each individual claimant with whom the commissioners of highways could not agree, and make a statement thereof in writing, and deliver the same to the justice, which he shall deposit with the town clerk, who shall note the time of filing the same.

**MODE OF ASSESSING DAMAGES.]** The jury, in assessing the damages, shall estimate the special advantages and benefits the new road or alteration of an existing road, will confer on the owners of the land in question, as well as the disadvantages and damages that will be occasioned thereby; but shall not estimate any benefits or advantages which may accrue in common with adjoining lands on which said road does not pass. In case the jury cannot agree on the amount of damages in a reasonable time, the justice may discharge the same and issue a summons for a new jury, and fix the time and place of meeting, and proceed in the same manner as if no other jury had been impaneled in the case, of which all parties interested shall take notice. The justice, constable and jury shall be entitled to the same fees they are entitled to for like services in other cases, and the commissioners of highways shall certify to the expenses necessarily incurred by the jury in going to and viewing the grounds, which expenses and costs shall be paid by the town authorities.

§ 3. Section 75 of article xvii. of the act above mentioned \* \* is hereby amended, so as to read as follows:

**§1. HEARING BEFORE THREE SUPERVISORS.]** § 75. It shall be the duty of the supervisors to convene at the time and place mentioned in the notice, and to hear the proofs and allegations of the parties. They shall have power to issue process to compel the attendance of witnesses, and may adjourn from time to time, as may be necessary. Their decision, or that of any two of them, shall embrace only the question of the propriety and expediency of locating, altering or discontinuing the road.

§ 4. Section 93 of article xvii. of the above mentioned act \* \* is hereby amended, so as to read as follows:

**§9. PRIVATE ROADS.]** § 93. Roads for private and public use, of the width of three rods or less, may be laid out from the dwelling or plantation of an individual, to any public road, or from one public road to another, or from one lot of land to another, or from a lot of land to the highway, on petition to the commissioners of highways, by any person directly interested. The commissioners, on receiving such petition, shall have power to lay out the road, as asked for therein, to which end they shall proceed and examine into the merits of the case, and shall be governed in their proceedings by the rules and regulations prescribed in this act in relation to public roads. The jury shall consider the question of benefits and damages that may result to parties from said proposed road, and shall assess the damages to each individual owner of lands affected thereby. The amount of such damages shall be paid by the persons benefited thereby to the extent and in proportion that they are benefited, to be determined and declared by the jury. The remainder of the amount of damages over and above that to be paid by the parties as aforesaid, shall be paid by the town as in other cases. The amount of damages to be paid by individuals shall be deposited with the supervisor of the town, for the persons entitled thereto, before the road shall be opened for use. An appeal may be taken on the question of the propriety and necessity of such road, as in other cases.

**§10. PUBLIC HIGHWAYS.]** § 5. All roads, highways and bridges, now in use by the public as highways, are hereby declared to be public highways of the town in which they are situated.

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*An act to provide for the erection and maintenance of bridges by two or more towns. Approved 22 March 1872.  
In force 1 July 1872. This act appears to be an enlargement of the earlier provisions on the same subject.  
See Vol. 1, 767 §§ 19 and 20.*

**105. PETITION FOR A BRIDGE.]** § 1. Whenever the supervisors of two or more towns in counties organized under the township organization law, shall be petitioned by 12 legal voters who are freeholders residing within each town, praying for the erection and maintenance of a bridge in either or any of such towns, in which petition shall be designated the place where the same shall be constructed, it shall be the duty of such supervisors to make an estimate of the expense which may be incurred in the erection of such bridge, and to agree among themselves as to what proportion of such expense it would be equitable and just that each of such towns should bear and sustain in the erection of such bridge.

**106. ESTIMATE: EXPENSES : APPORTIONMENT.]** § 2. In case the supervisors can so agree, it shall be their duty to make out, in writing, such estimate of the total expense of building such bridge as in the petition set forth, and general character of such proposed bridge, and the proportion of such expense to be assigned to each town, and to deliver a copy thereof, signed by all of such supervisors, to each of such supervisors so concurring therein, and each supervisor to whom such copy is delivered shall deposit the same with the town clerk of his town.

**107. NOTICE OF ELECTION.]** § 3. It shall be the duty of the town clerk to include in the notice of the next annual town meeting, a statement that the question will be submitted, at such town meeting, whether such town will contribute the proportion of the expense so assigned such town towards the erection of such bridge.

**108. VOTING ON THE BRIDGE.]** § 4. At the regular town meeting in each of such towns, the qualified voters therein may each cast a ballot in the following form: "For appropriation to build bridge," or "Against appropriation to build bridge." If a majority of the votes cast on the question in each of said towns shall be for such appropriation, then the agreement as to the proportion of such expense which each of such towns should so sustain for such purpose, shall be deemed to be ratified by and obligatory upon such towns respectively: *Provided*, that if the proposition so submitted fails to receive a majority of the votes cast on the question, in any of such towns, the same shall not be obligatory upon any or either of such towns: *Provided further*, that if the supervisor or supervisors of any such town or towns, shall, at any time thereafter, deem it proper or expedient to submit the question again to a vote of such town or towns, as provided in and by this act, it shall and may be lawful so to do.

**109. RATIFICATION: JOINT CONTRACT.]** § 5. In case such proposition is ratified in all of the towns to which the same shall be so submitted, the supervisors (and assistant supervisors, if any) of such towns shall collectively constitute a board, which shall be authorized to erect such bridge and to make all necessary contracts therefor, in behalf of such towns, as shall so unite for that purpose, and the expense of erecting such bridge shall be borne by such towns respectively, in proportion to the amount of such expense so assigned to and ratified by such towns as aforesaid, but such board may make joint contracts in behalf of all such towns, in writing, for the erection of such bridge: *Provided*, that no such contract shall be binding unless concurred in by a majority of the board.

**110. TAX LEVIED: BONDS ISSUED.]** § 6. Any town so voting to bear a portion of the expense of building such bridge, may levy a tax to raise the whole amount so assigned to such town, or any part thereof, in any one year; or, when so directed, by a vote of the town, at any annual or special town meeting, the supervisor thereof may issue bonds of such town for the whole or any portion of the amount of such appropriation, which bonds shall be payable at such times and bear such interest as may be determined by a vote of the town meeting authorizing the same to be issued: *Provided*, that no such bonds shall run for a greater period than five years: *And provided further*, that such supervisors shall not negotiate, sell, or in any way dispose of any one or more of said bonds for less than 90 cents on the dollar, of each and every dollar for which they are issued, nor shall such bonds draw a greater rate of interest than 10 per cent. per annum.

**111. FORM OF BONDS.]** § 7. Whenever any such bonds shall be so issued, the same shall be signed by the supervisor and town clerk of the town, in their official capacity, and shall contain on their face a reference to the vote of the town authorizing the same to be issued.

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XVII. Roads, Highways and Bridges.

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**112. BONDS NEGOTIATED: PROCEEDS USED.]** § 8. The supervisor of each town shall have the authority to negotiate such bonds in behalf of the town, as provided in § 6 and to use the proceeds thereof, and any money that may be raised by tax for that purpose, in paying the proportion of the expense of building such bridge assigned to his town in the manner aforesaid.

**113. NEW OFFICIAL BOND.]** § 9. Before receiving any such funds or bonds the supervisor shall give a bond to the town, in a sufficient penalty to cover the amount of all such bonds and funds, with sureties, to be approved by the commissioners of highways, conditioned for the faithful appropriation of such bonds or funds to the purpose for which the same was voted by the town.

**114. CONTROL OF THE BRIDGE.]** § 10. After any such bridge shall be so built, the same shall remain in the control of the supervisors of, and be maintained and kept in repair by, the towns so contributing towards the erection thereof, and each of such towns shall contribute towards such maintenance in the same proportion as it voted toward such erection of the bridge: *Provided*, that if any town, other than the town or towns in which the bridge is located, shall vote, at any annual town meeting, that it will no longer contribute towards the maintenance of such bridge, it shall thereafter be relieved from such obligation, and shall no longer participate in the control of such bridge.



## F O R M S .

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*In order that these Forms may be instantly available for practical use by any person, whether familiar with the arrangement of the law or not, a careful synopsis of them all, in the order in which they are afterwards printed, is here presented. When the reader desires to refer from this list to the Law, let him observe the ARTICLE under which any particular Form is required, and the black figures on the left show the very section of the law, in that Article. But if he desires to turn to the Form itself, the figures on the right denote the page where it will be found. So too, in connection with each Form is given the page and section of the law under which it is needed.*

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## TOWNSHIP ORGANIZATION FORMS.

These Forms are arranged in the same order as the sections of the law under which they are needed for use. The bold black figures in the margin correspond with the sections of the law. If the reader will observe the Article and section of the law where any form is required, he can easily turn to the form itself and *vice versa*. The page of the law where any form is required is also given.

### ART. I. PROCEEDINGS TO ADOPT.

**ART. I. 2.** *Petition to the County Court for submission of Township Organization.*  
Page 741.

To the county court of —— county, Illinois: The undersigned, legal voters of said county, petition your honorable body to cause to be submitted to the voters of the county, at the next general election, the question of township organization, that they may vote upon the adoption thereof. Dated —— 18—. [Fifty signatures.]

**ART. I. 9.** *Report of the Commissioners appointed to Divide the County into Towns.*  
Page 742.

To the county court of —— county, Illinois: The undersigned, commissioners appointed by said court to divide said county into towns and give names thereto, according to the laws for township organization, respectfully report that they have performed that duty, as follows:

All within the limits of township No. ——, range ——, government survey, is erected into a town called ——. [Describe each town in like manner.] Respectfully submitted.

Dated —— 18—.

A—— B——, }  
C—— D——, } Commissioners.  
E—— F——, }

**ART. I. 10.** *Notice for the First Town Meeting.* Page 742.

#### TOWN MEETING NOTICE.

The citizens of the town of ——, in —— county, Illinois, are hereby notified to meet on the —— day of —— 18—, at [state the place and hour of meeting] to hold the first town meeting in said town, for the election of town officers and the transaction of town business as required by law. Dated —— 18—. A—— B——,  
Clerk of the County Court of —— County.

### ART. III. ALTERING BOUNDARIES AND DIVISIONS OF TOWNS.

**ART. III. 2.** *Notice by twelve Freeholders calling Town Meeting after default of Annual Meeting.* Page 743.

#### TOWN MEETING NOTICE.

The undersigned, freeholders of the town of ——, in —— county, Illinois, hereby give notice that on the —— day of —— 18—, at [state the hour and place of meeting] a meeting of the electors of said town will be held for the election of town officers and the transaction of town business as the law requires. Dated —— 18—.

[Signed by 12 Freeholders.]

## Art. III. Altering Boundaries and Divisions of Towns.

ART. III. 4. *Agreement in case of Division of Town; made by Supervisors and Assessors.* Page 743.

This agreement made on the part of the town of —, by A— B—, supervisor, and C— D—, assessor thereof, and on the part of the town of —, by E— F—, supervisor, and G— H—, assessor thereof, both towns being in — county, Illinois, witnesseth: That whereas the town of — has lately been divided into the towns of — and —; and whereas said original town was at the time of such division the owner of the following land: [describe it.] It is hereby agreed by said new towns that the following portion thereof be sold for the benefit of said town of —, namely: [describe it,] and that the following [describe it,] shall remain the property of said town of —. Dated — 18—.

A— B—, (seal,) Supervisor  
C— D—, (seal,) Assessor.  
E— F—, (seal,) Supervisor.  
G— H—, (seal,) Assessor.

*Deed of Real Estate where a Town is divided; made by Supervisors and Assessors.* Page 743.

Whereas, the town of —, in — county, Illinois, has lately been divided into the towns of — and —; and whereas said town was at the time of such division seized of the following real estate, namely: [describe the whole premises,] and whereas the supervisors and assessors of each of said towns have agreed that the following portion thereof should be disposed of for the benefit of said town of — [varying with the agreement,] as being its equitable share, namely: [describe the part to be disposed of.]

Now therefore, this indenture, made between A— B—, supervisor, and C— D—, assessor, of said town of —; E— F—, supervisor, and G— H—, assessor, of said town of —, First Party; and L— M—, Second Party, witnesseth:

That said first party, in consideration of the sum of — dollars paid by said second party, the receipt whereof is hereby acknowledged, have and do grant, bargain and sell unto said party of the second part, and his heirs and assigns forever, the following premises, namely: [describe the premises conveyed.] To have and to hold, with all the appurtenances thereunto belonging, to the only proper use and benefit of said second party, his heirs and assigns forever. Witness the hands and seals of said grantors this — day of — 18—.

A— B—, (seal,) Supervisor.  
C— D—, (seal,) Assessor.  
E— F—, (seal,) Supervisor.  
G— H—, (seal,) Assessor.

[Acknowledged in the usual form.]

6. NOTE.— Where a town has been divided, the proceedings of the supervisors and assessors ought to be reduced to writing, and filed with the town clerk for future reference. Such a record may be in the following form:

ART. III. 6. *Proceedings on Division of Town; signed by the Supervisors and Assessors.* Page 744.

The supervisors and assessors of the towns of — and — in — county, Illinois, having met in pursuance of law to divide and apportion the lands, money, rights and credits of the late town of — in said county, have agreed and do hereby order:

1. That the following real estate [describe it] shall be the property of the town of —, and may be sold for the benefit thereof.
2. That the following real estate [describe it] shall be the property of the town of —, and may be sold for the benefit thereof.
3. That the money on hand amounting to — dollars, be divided as follows: [state how.]
4. That the debts owing by said original town be apportioned as follows: [state how.]

Dated — 18—.

A— B—, Supervisor of the town of —.  
C— D—, Assessor of the town of —.  
E— F—, Supervisor of the town of —.  
G— H—, Assessor of the town of —.

## Art. IV. Town Meetings — Power of Electors.

**ART. III. 7. Notice to Officers in case of Division or Alteration of Town; given by a Supervisor.** *Page 744.*

To ——, supervisor [*or assessor*] of the town of ——, in —— county, Illinois: You are hereby notified that a meeting of the supervisors and assessors of said towns will be held on the —— day of —— 18—, at [*state the hour and place of meeting*] to divide and apportion the lands, moneys, rights and credits of the town of ——, lately divided.

Dated —— 18—.

A—— B——,

*Supervisor of the town of ——.*

**ART. IV. TOWN MEETINGS — POWER OF ELECTORS.**

**ART. IV. 1. Notice for Annual Town Meeting.** *Page 744.*

**ANNUAL TOWN MEETING.**

The legal voters of the town of ——, in —— county, Illinois, will take notice that on the —— day of —— 18—, at [*state the hour and place of meeting*] the annual town meeting for said town will be held for the election of town officers and the transaction of town business, as required by law. Dated —— 18—.

A—— B——, *Town Clerk.*

**ART. IV. 5. Clauses 8 and 12. By-Laws Prohibiting Stock from running at large; to be adopted in Town Meeting.** *Page 745.*

The town of ——, in —— county, Illinois, by its electors in town meeting duly assembled, does hereby make and adopt as by-laws the following:

§ 1. After the —— day of —— 18—, no stock shall run at large in said town, whether horses, mules, asses, cattle, sheep, hogs or goats, or the young of any of said animals. The owner of any such animal who shall allow the same to run at large, contrary to the provisions hereof, shall be subject to a penalty of —— dollars, for each animal so at large. Any of said animals found so at large, shall be taken by the pound master and impounded; and any resident of the town may lawfully take such animals to the pound, and cause them to be impounded.

§ 2. Thereupon the pound master shall at once make complaint before some justice of the peace, stating the violation of law, the name of the owner of the animals, if known, their kind, number and description, and when and by whom impounded. And said justice shall attach to such complaint a notice in writing, directed to the owner of said animals, stating that in pursuance of said complaint, a hearing will be had thereon; and fixing a time not more than —— days thereafter when said complaint will be heard; which notice shall be served at least —— days before the day of hearing.

§ 3. Service of such notice may be made by reading. If the owner be not known, then five copies of the complaint and notice shall be posted by the pound master in the most public places of the town, at least —— days before the day of hearing. The pound master shall attend at the hearing, and present the facts in the case.

§ 4. The cause shall be tried by a jury, unless waived by the owner, and conducted as other causes before justices of the peace. If the owner is found guilty, the justice shall enter judgment against him for the fine and costs, and enter an order directing the pound master to sell the property therefor.

§ 5. The pound master shall supply proper and sufficient food and drink to all animals impounded, the value thereof to be shown on trial and allowed against the owner.

Passed in town meeting this —— day of —— 18—. A—— B——, *Town Clerk.*

*Complaint by Pound Master.* *Page 745.*

A—— B——, pound master of the town of ——, in —— county, Illinois, states on oath that in violation of the by-laws of said town, [*one*] horse [*or other animal*] was found

## Art. IV. Town Meetings — Power of Electors.

at large at [state the place] in said town, described as follows : [describe the animal.] Supposed to belong to C— D— and impounded by [stating by whom] on the — day of — 18— Whereof he complains as required by law.

A— B—, Pound Master.

Sworn to before me this — day of — 18—.

E— F—, J. P.

*Notice Attached to the Foregoing Complaint, where the Owner is Known. Page 745.*

To C— D— : You are hereby notified that in pursuance of the foregoing complaint, a hearing thereon will be had before me at my office on the — day of — 18—, at [nine] o'clock [forenoon], when and where the truth of said complaint will be tried according to law. Dated — 18—.

E— F—, J. P.

NOTE.— This notice should be served by reading, by the pound master or any constable, and a return of the service indorsed thereon. It will then be filed by the justice.

*Notice Attached to the Foregoing Complaint, where the Owner is Unknown. Page 745.*

To the unknown owners of the animals described in the above complaint : You are hereby notified that in pursuance of said complaint, a hearing thereon will be had before me at my office on the — day of — at [nine] o'clock [forenoon], when and where the truth of said complaint will be tried according to law. Dated — 18—.

E— F—, J. P.

NOTE.— The original of this complaint and notice should be filed by the justice, with an indorsement thereon showing that five copies had been duly posted, and by whom.

*Docket Entry on Complaint against Impounded Animals. Page 745.*

State of Illinois, — county. Before E— F—, Justice.

Town of — } Complaint of A— B—,  
vs. }  
C— D—. } Pound Master.

On the — day of — 18—, A— B—, pound master of said town, complains of C— D— for allowing [one horse] to be at large in said town contrary to the by-laws thereof. Notice issued thereon that a hearing thereof will be had on the — day of — 18— at — o'clock — M. Notice returned served by pound master on said C— D— on the [date].

On the [date of hearing] said pound master appears ; C— D— also appears ; jury of twelve men are summoned and sworn to try the issue joined. The proofs, and statements of the parties are heard ; the jury find the complaint true and assess a fine of — dollars. Judgment is therefore rendered against said C— D— for — dollars fine, and costs herein of — dollars. Ordered that said pound master sell said animals, as by law directed, to make the amount of said fine and costs, unless paid before sale.

E— F—, J. P.

NOTE.— This being entered on the docket of the justice, there ought properly to be some written authority in the hands of the pound master, before he proceeds to sell property. The following is suggested :

*Order to Pound Master to Sell ; issued by the Justice. Page 745.*

State of Illinois, — county. The people of the state of Illinois to the pound master of the town of — in said county. We command you that of the impounded animals of A— B— [or, of persons unknown] now in your pound, you make the sum of — dollars fine and — cost, which said town lately recovered before me in a certain plea against the said A— B— [or, against the unknown owners of said animals], and hereof make return to me how you have executed this writ. Given under my hand and seal this — day of — 18—.

E— F—, J. P. (seal.)

## Art. V. Conducting Town Meetings.

ART. IV. 7. Notice of Sale by Pound Master. Page 746.

## POUND MASTER'S SALE.

By virtue of authority in me vested by law, and in pursuance of a judgment order made by E— F—, J. P., I, A— B—, pound master of the town of —, in — county, Illinois, will on the — day of — 18—, at [name the place], at — o'clock — M., proceed to sell to the highest bidder for cash the following impounded animals: [here describe them] to make the sum of — dollars fine, and — dollars and — cents cost, lately adjudged by the said justice against C— D—, the owner of said animals, for a violation of the by-laws of said town. Dated — 18—.

A— B—, Pound Master.

ART. IV. 9. Statement for Special Town Meeting; filed with Town Clerk. Page 746.

The undersigned, officers and freeholders of the town of —, in — county, Illinois, state that a special town meeting is necessary to the interest of said town for [state the purpose of the meeting.] We therefore request that immediate notice thereof be given for a meeting to be held on the — day of — 18—. Dated — 18—.

A— B—, Supervisor.

C— D—, Town Clerk.

E— F—, J. P.

G— H—, J. P.

[And 12 Freeholders.]

Notice for Special Town Meeting. Page 746.

## SPECIAL TOWN MEETING.

Whereas a statement has been filed in my office signed according to law, requesting a special town meeting to be held in the town of —, in — county, Illinois, and alleging that the same is necessary: The legal voters of said town are therefore hereby notified that a special town meeting for said town will be held on the — day of — 18—, at [state the hour and place of meeting], for the objects specified in said statement, namely: [copy from the statement the object of the meeting.] Dated — 18—.

A— B—, Town Clerk.

## ART. V. CONDUCTING TOWN MEETINGS.

**1. Note.**— In order to dispose of business properly and with despatch, it is necessary to observe in town meetings those rules which experience has shown to be suitable for all public assemblies. Some of those rules defining the general duties of the presiding officer, or moderator, are:

To open the meeting at the time named in the notice, by taking the chair and calling the house to order.

To announce the business before the meeting in the order named in the notice or in the law.

To receive and put to vote all motions which are in order, or necessary in the course of business, and announce the result.

To enforce the observance of order by those engaged in debate, as well as others.

To inform the meeting, when desired, on a point of order or practice.

To appoint all committees not otherwise selected.

To represent the meeting in all things, and obey its commands.

After a motion is made and seconded, the moderator will say: "Gentlemen, it is moved and seconded that [stating the motion as made.] Those in favor of that motion will say, AYE. Those opposed will say, NO." If there is a decided majority either one way or the other, the moderator will at once announce the result, thus: "The AYES [or NOES] have it." But when the vote is nearly equal, he will do well always to say: "The AYES [or NOES] seem to have it." If any one in the meeting is not satisfied with that statement of the vote he will say: "Division." To which the moderator will respond: "A division being called for, all those in favor of this motion will rise and stand until they are counted." Which being done and the AYES seated, he will say: "Those opposed to the motion will also rise and stand until they are counted." After which, the result may be thus announced: "There being — votes in favor and — votes against, this motion is adopted" [or lost as the case may be.]

After the moderator has declared the vote, it becomes the sense of the meeting, and will stand as such until reconsidered or rescinded by another motion made for that purpose. It is made the duty of the moderator to regulate the business and proceedings of the meeting. After the meeting is organized, by the election and qualification of officers, he should announce that the meeting is ready for business; that first in order will be opening the polls and proceeding to the election of such officers of the town as are

## Art. V. Conducting Town Meetings.

to be elected by ballot. At two o'clock p. m., he should announce that the general business of the day is in order. He should then direct the order in which the various subjects should be taken up, and announce each in its order for action.

**ART. V. 2. Oath of Moderator of Town Meeting; Administered by the Town Clerk or any Justice. Page 747.**

"I do solemnly swear [or, affirm] that I will support the constitution of the United States, and the constitution of the state of Illinois, and that I will faithfully discharge the duties of the office of moderator at this town meeting, according to the best of my ability."

**ART. V. 3. Minutes of the Proceedings of a Town Meeting. Page 747.**

At the annual town meeting held in the town of —, in — county, Illinois, at [name the place of meeting] on the — day of — 18—, the meeting was called to order by A— B—, town clerk. C— D— being chosen moderator was duly sworn by E— F—, J. P., and took the chair.

Proclamation thereof having been made by the clerk, polls were opened for the election of officers.

At twelve o'clock noon, the meeting was adjourned, and polls closed for one hour.

At one o'clock p. m., the meeting was called to order by the moderator, and the polls opened, pursuant to adjournment.

Voted, That the polls for the election of officers be kept open until six o'clock p. m.

The following resolution was offered: Resolved, That [copy the resolution]. And after consideration it was adopted.

Voted, That a town pound be erected at [state the place where], by the pound master, within — days from this date, not to exceed in cost — dollars.

The following persons were elected by acclamation to be overseers of highways for the ensuing year, in the following road districts:

1. [State the number of the district and name of the person elected; continue for each district.]

Voted, That the next annual town meeting be held at [name the place.]

[In this manner record each act of the meeting; conclude with the canvass of votes as given under 22.]

On motion, adjourned.

A— B—, Town Clerk.

C— D—, Moderator.

**ART. V. 10. Oath to be taken by Person Challenged; page 747; see Elections, 74. Page 254.**

You do solemnly swear [or, affirm] that you are a resident of this township, and that you have been an actual resident herein for the last 30 days: that you are a citizen of this state, and have resided herein one year preceding this town meeting; (or that you was an inhabitant of this state on the first day of April, in the year 1848;) that you are above the age of 21 years, and that you have not voted at this town meeting, so help you God.

NOTE.— Section 74 of the election law, requires the person challenged to state on oath certain other facts, which may be conveniently done in the following manner:

*Additional Oath to Person Challenged.*

You do solemnly swear [or, affirm] that you will fully and truly answer all such questions as shall be put to you touching your place of residence, and qualifications as a voter at this election.

[The ensuing questions should then be answered:]

1. In what town do you now reside?

2. In what place and house do you reside? State the same particularly.

3. How long have you resided in said house, and what is your business or employment?

[If the answer shows that the person has not resided in such town for 30 days immediately preceding the election or town meeting, he must state where and in what house he has resided for the last 30 days.]

## Art. V. Conducting Town Meetings.

*Oath of the Two Witnesses.*

I do solemnly swear [or, *affirm*] that I am a resident of this election district, and entitled to vote at this election, and that I have been a resident of this election district for one year last past, and that I am well acquainted with the voter whose vote is now offered, that he is an actual and *bona fide* resident of this election district, and that he has resided in this state for one year last past.

ART. V. **15.** *Proclamation for Opening Polls at Town Meeting.* Page 748.

Hear ye : hear ye : hear ye : the polls for the election of officers at this town meeting are now open, according to law.

*Proclamation of Adjournment of Polls.* Page 748.

Hear ye : hear ye : hear ye : the polls for the election of officers at this meeting will stand adjourned till one o'clock this afternoon.

*Opening Polls after Adjournment.* Page 748.

Hear ye : hear ye : hear ye : the polls for the election of officers at this meeting are now opened pursuant to adjournment.

ART. V. **17.** *Poll List at Town Meeting.* Page 748.

Poll list kept by the clerk at the town meeting held at — in the town of —, in — county, Illinois, on which is entered the name of each person there voting:

No.	NAMES.	No.	NAMES.
1	A— B—,	4	G— H—,
2	C— D—,	5	I— J—,
3	E— F—,	6	K— L—.

Total number of ballots, 6.

A— B—, *Town Clerk.*  
C— D—, *Moderator.*

ART. V. **22.** *Statement of the Result of the Canvass of Votes; to be entered in the Minutes: see 3.*

The following is the result of the canvass of votes by ballot at the annual town meeting in the town of —, in — county, Illinois, as publicly canvassed by the presiding officer at said meeting:

A— B— had — votes for supervisor.

C— D— had — votes for clerk.

[And so on, with a statement of the votes for each person.] Which statement was then and there publicly read.

A— B—, *Town Clerk.*

*Notice in case of Tie Vote.* Page 748.

To A— B— : Yourself and C— D— having received an equal number of votes for the office of —, for the town of —, for the ensuing year, you are hereby notified that the question of which of you shall be entitled to said office, will be decided by lot on the — day of — 18—, at [state the hour and place,] and that should you fail to attend the same will be so decided in your absence. Dated — 18—.

E— F—, *Town Clerk*

NOTE.— The result of the lot should be entered by the clerk on the town records. The following form may be used:

*Memorandum of Decision of Tie Vote.* Page 748.

At the annual town meeting for 18— in the town of —, A— B— and C— D— having each had an equal number of votes for the office of —, the question of

## Art. VI. Qualification and Tenure of Office.

which should be entitled to said office was, on the —— day of —— 18—, duly decided between them by lot, and decided that said A—— B—— was entitled thereto.

Dated —— 18—.

E—— F——, Town Clerk.

**ART. V. 23. Notice to Person Elected; given where his Name does not Appear on the Poll List. Page 748.**

To A—— B——: You are hereby notified that at the annual [or special] town meeting in the town of —— held on the —— day of —— 18—, you were duly elected [supervisor.] Dated —— 18—.

C—— D——, Town Clerk.

**ART. VI. QUALIFICATION AND TENURE OF OFFICE.**

**ART. VI. 2. Oath of Town Officer; may be Administered by the Town Clerk or any Justice. Page 749.**

State of Illinois, —— county. I, A—— B——, do solemnly swear [or, affirm] that I will support the constitution of the United States, and the constitution of the state of Illinois, and that I will faithfully discharge the duties of the office of [supervisor] according to the best of my ability. A—— B——.

Sworn to before me this —— day of —— 18—.

C—— D——, Town Clerk.

*Certificate of Supervisor's Election; to be presented to the Board of Supervisors.  
See Art. xiv. 5.*

— county, town of —. I, A—— B——, town clerk of said town, hereby certify that at the recent annual town meeting thereof, on the —— day of —— 18—, C—— D—— was duly elected [or, that on the —— day of —— 18—, C—— D—— was duly appointed] supervisor of said town; that he has qualified according to law by taking oath and giving bond. Dated —— 18—.

A—— B——, Town Clerk.

**ART. VI. 5. Acceptance of Office by Pound Master or Overseer of Highways. Page 749.**

To A—— B——, town clerk of the town of —: You are hereby notified that I accept the office of [overseer of highways for district No. —, or, pound master] of said town, to which I was lately elected [or, appointed]. Dated —— 18—.

C—— D——.

**ART. VI. 6. Bond of Town Collector. Page 749.**

We, A—— B——, as principal, and C—— D—— and E—— F—— as sureties, all of the town of —, in — county, Illinois, are held and firmly bound to G—— H——, supervisor of said town, and his successor in office, in the penal sum of [double the taxes] for the payment of which well and truly to be made, we bind ourselves, our heirs, executors and administrators firmly by these presents.

The condition of the above bond is this: Whereas said A—— B—— has lately been elected [or, appointed] collector of said town for the current year, and has qualified as such: Now if the said A—— B—— shall faithfully execute all his duties as such collector, then the above bond shall be void; otherwise to remain in full force and effect. Witness our hands and seals this —— day of —— 18—.

A—— B——, (seal.)  
C—— D——, (seal.)  
E—— F——. (seal.)

**ART. VI. 7. Approval Indorsed Thereon. Page 749.**

I hereby approve the within bond. Dated this —— day of —— 18—.

G—— H——, Supervisor of the town of —.

**ART. VI. 9. Constable's Bond. Page 749.**

Whereas, A—— B—— was, on the —— day of —— 18—, duly elected [or, appointed] constable for the town of —, in — county, Illinois:

## Art. VII. Filling Vacancies.

Now therefore we, A— B— as principal and C— D— and E— F— as sureties, jointly and severally agree to pay to each and every person who may be entitled thereto, all such sums of money as the said constable may become liable to pay on account of any executions which shall be delivered to him for collection by virtue of his office, and all such damages as each and every person may sustain by reason of any malfeasance, misfeasance, or non-performance of duty on the part of said constable.  
Dated — 18—.

Executed in my presence:      }  
          G— H—,      }  
Supervisor of the town of —. }

A— B—, (seal.)  
C— D—, (seal.)  
E— F—. (seal.)

## ART. VI. 10. Approval Indorsed Thereon; by the Supervisor or Town Clerk. Page 750.

I hereby approve the within instrument and the sureties therein named.

Dated — 18—.

G— H—,  
Supervisor of the town of —.

## ART. VI. 19. Oath on Going out of Office. Page 750.

You do solemnly swear [or, affirm] that you have delivered to A— B—, your successor in office, all the records, books and papers in your possession or control belonging to the office of [supervisor] for the town of —: So help you God.

G— H—.

## ART. VII. FILLING VACANCIES.

## ART. VII. 1. Warrant of Appointment to Office on Failure to Elect. Page 750.

To A— B—: Whereas at the annual town meeting for the town of —, in — county, Illinois, held on the — day of — 18—, said town failed to elect a [pound master] for the current year: We therefore hereby appoint you to fill said office in said town for the remainder of the current year. Witness our hands and seals this — day of — 18—.

C— D—, J. P. (seal.)  
E— F—, J. P. (seal.)  
G— H—, Supervisor. (seal.)  
L— M—, Town Clerk. (seal.)

## Warrant of Appointment to Fill Vacancy. Page 750.

To A— B—: Whereas C— D—, late [constable] of the town of —, in — county, Illinois, did on the — day of —, 18—, resign said office, [or, depart this life, or, remove from said town, etc.] whereby said office has become vacant: We therefore hereby appoint you to fill said office for the remainder of the unexpired term of said C— D—. Witness our hands and seals this — day of — 18—.

E— F—, J. P. (seal.)  
G— H—, J. P. (seal.)  
L— M—, Supervisor. (seal.)  
N— O—, Town Clerk. (seal.)

## ART. VII. 3. Notice to Person Appointed. Page 751.

To A— B—: You are hereby notified that on the — day of — 18—, you were duly appointed to the office of [pound master] for the town of —, in — county, Illinois, by warrant filed in my office according to law. Dated — 18—.

C— D—, Town Clerk.

## ART. VII. 4. Resignation. Page 751.

To A— B— and C— D—, justices of the peace of the town of —, in — county, Illinois: By reason of [state the cause for resignation] I hereby resign the office of [town clerk] of said town. Dated — 18—.

E— F—.

Art. VIII. The Supervisor and his Duties.—Art. IX. The Town Clerk and his Duties.

*Acceptance Thereof; may be Noted at the Foot or Indorsed Thereon. Page 751.*

Being satisfied that the cause shown is sufficient, we hereby accept the resignation of said E— F—. Dated —— 18—. A— B—, J. P.  
C— D—, J. P.

## ART. VIII. THE SUPERVISOR AND HIS DUTIES.

ART. VIII. 1. *Supervisor's Bond. Page 751.*

We, A— B— as principal, and C— D— and E— F— as sureties, all of the town of —, in — county, Illinois, are held and firmly bound to said town, for the use of the inhabitants thereof, in the penal sum of [insert such sum as the town clerk may deem proper.] for the payment of which well and truly to be made, we bind ourselves, our heirs, executors and administrators firmly by these presents.

The condition of the above bond is this: Whereas said A— B— has lately been elected supervisor of said town for the current year, and has qualified as such: Now if the said A— B— shall faithfully discharge all of his duties in relation to the town revenue of said town, then the above bond shall be void; otherwise to remain in full force and effect. Witness our hands and seals this — day of — 18—.

A— B—, (seal.)  
C— D—, (seal.)  
E— F—. (seal.)

*Approval Indorsed Thereon. Page 751.*

I hereby approve the within bond. Dated — 18—.

L— M —, *Town Clerk.*

ART. VIII. 3. *Supervisor's Book. Page 751.*

A— B—, supervisor, in account with the town of —.

DATE.	TOWN	DR. \$      c.	DATE.	TOWN	CR. \$      c.
April 10, 18—	Paid for this book	75	Dec. 1, 18—	By cash of C. D., town collector	150 00

ART. VIII. 5. *Certificate to Supervisor's Book; made by Justices and Town Clerk. Page 751.*

We, the justices and town clerk of the town of —, in — county, Illinois, hereby certify that we have examined the foregoing account [this being at the close of each accounting] and find the same correct, showing a balance of — dollars in the hands of [or, due to] A— B— as supervisor of said town. Dated — 18—.

C— D—, J. P.  
E— F—, J. P.  
G— H—, *Town Clerk.*

## ART. IX. THE TOWN CLERK AND HIS DUTIES.

ART. IX. 1. *File Mark; to be Indorsed by the Town Clerk on all his Papers. Page 752.*

Filed this — day of — 18—.

A— B—, *Town Clerk.*

ART. IX. 3. *Certificate of Town Clerk; to be added to the Copies of Entries of Votes for Raising Money, as taken from Town Book. Page 752.*

I hereby certify that the foregoing are true copies of entries of votes for raising

## Art. X. Board of Auditors.

moneys made since the last meeting of the board of supervisors, and recorded in the town book of the town of ——, in —— county, Illinois. Dated —— 18—.

A—— B——, Town Clerk.

**ART. IX. 6. Certificate to Copies of Papers and Records ; made by Town Clerk. Page 752.**

I, A—— B——, town clerk of the town of ——, in —— county, Illinois, hereby certify that the foregoing is a true copy from the town records [or, *papers*] on file in my office. Dated —— 18—.

A—— B——, Town Clerk.

**ART. X. BOARD OF AUDITORS.**

**ART. X. 4. Certificate of Town Auditors ; to be Attached to Account. Page 753.**

We, town auditors of the town of ——, in —— county, Illinois, hereby certify that we have examined the accounts of A—— B——, C—— D—— and E—— F—— as commissioners of highways, and G—— H—— as overseer of the poor, in said town. That there is justly due as between said officers and said town :

From [or, to] said A—— B——, —— dollars.  
From [or, to] said C—— D——, —— dollars.  
From [or, to] said E—— F——, —— dollars.  
From [or, to] said G—— H——, —— dollars.

And that there is —— dollars in the hands of the treasurer of said commissioners of highways, due said town. Dated —— 18—.

L—— M——, Supervisor.  
N—— O——, Town Clerk.  
P—— Q——, J. P.  
R—— S——, J. P.

**ART. X. 6. Account Against Town, with Affidavit. Page 753.**

Town of ——

To A—— B——, Dr.

May 1, 18—. For —— days' services as supervisor in [state how employed] —— dollars. [Other items may be added; credits, if any, should also be given.]

*Affidavit*

A—— B—— on oath states that the above account for —— dollars is correct and just, and is unpaid. A—— B——.

Sworn to before me this —— day of —— 18—

C—— D——, J. P.

**ART. X. 7. Certificate by Auditors of Claims allowed. Page 753.**

We, town auditors of the town of ——, in —— county, Illinois, hereby certify that we have allowed the following accounts against said town :

To A—— B——, for [state the nature of the claim,] \$2.50.

To C—— D——, for [state the nature of the claim,] \$1.25.

[And so with all the accounts.]

Dated —— 18—.

E—— F——; Supervisor.  
G—— H——, Town Clerk.  
L—— M——, J. P.  
N—— O——, J. P.

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Art. XIV. Board of Supervisors. — Art. XV. County Treasurer. — Art. XVII. Roads, etc.

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## ART. XIV. BOARD OF SUPERVISORS.

### ART. XIV. 2. Request for Special Meeting. Page 756.

To A— B—, clerk of the board of supervisors in — county, Illinois: The undersigned, being one third of the members of said board, hereby request that a special meeting thereof be held on the — day of — 18—, at the court house in said county.

Dated — 18—.

[Signed by at least one third of all the members.]

### Notice of Special Meeting; for Publication. Page 756.

#### BOARD OF SUPERVISORS. — SPECIAL MEETING.

Pursuant to a request of one third of the members, as provided by law, a special meeting of the board of supervisors of — county, Illinois, will be held on the — day of — 18—, at the court house in said county. Dated — 18—.

A— B—, Clerk

### Notice of Special Meeting to be sent to each Supervisor. Page 756.

To C— D—, supervisor: Take notice that in pursuance of a request of one third of the members, as provided by law, a special meeting of the board of supervisors of — county, Illinois, will be held on the — day of —, at the court house in said county.

Dated — 18—.

A— B—, Clerk.

## ART. XV. THE COUNTY TREASURER.

### ART. XV. 1. County Treasurer's Acceptance. Page 758.

To A— B—, clerk of — county court: I hereby accept the office of county treasurer of said county, to which I was lately elected [or, appointed.]

Dated — 18—.

C— D—.

#### County Treasurer's Bond.

We, A— B— as principal, and C— D— and E— F— as sureties, all of — county, Illinois, are held and firmly bound to the board of supervisors of said county, in the penal sum of [to be fixed by the supervisors] for the payment of which well and truly to be made, we bind ourselves, our heirs, executors and administrators firmly by these presents.

The condition of the above bond is this: Whereas said A— B— has lately been elected [or, appointed] county treasurer of said county, and has accepted the office: Now if the said A— B— shall faithfully execute all the duties of his office, and shall pay, according to law, all moneys which shall come to his hands as such treasurer, and render a just and true account thereof to the board of supervisors, or to the auditor of public accounts of this state, when thereupon required, then the above bond shall be void, otherwise to remain in full force and effect. Dated — 18—.

A— B—, (seal)

C— D—, (seal.)

E— F—. (seal.)

## ART. XVII. ROADS, HIGHWAYS AND BRIDGES.

### 1. Clause 3.

**NOTE.** — The manner in which these provisions are to be carried out is left to the discretion of the commissioners. It is suggested that a proper method would be this: 1. To order a survey of the road actually in use. 2. When the survey is received to give notice of that fact and afford those interested an opportunity to contest the report; and 3. After hearing all parties, to make such order as the law and facts require. In accordance with the above suggestion, the following forms have been prepared:

## Art. XVII. Roads, Highways and Bridges.

## ART. XVII. 1. Clause 3. Order for Survey of Old Road. Page 764.

To A— B—, surveyor: You are hereby directed to survey and plat the road as now actually used leading from [describe the line of the road] in the town of —, in — county of Illinois. Dated — 18—.

C— D—, } Commissioners  
E— F—, } of  
G— H—, } Highways.

## Surveyor's Report; to be Attached to the Foregoing Order. Page 764.

I, A— B—, surveyor, in pursuance of the above order have surveyed and platted the road therein described, commencing [here describe the line of the road accurately] and find the same to be — feet in width along the whole of said line, as will appear by the plat thereof hereto annexed. Dated — 18—.

A— B—, Surveyor.

NOTE.— To this report should be annexed the surveyor's plat of the road showing courses and distances.

## Notice to Parties Interested; Several Copies to be posted along the Line of said Road, Ten Days before the Hearing. Page 764.

## NOTICE.

To whom it may concern: Whereas a road leading from [here describe the line of the road] in the town of —, in — county, Illinois, which had once been laid out but not sufficiently described [or, which has been used for twenty years but not recorded,] has recently been surveyed and platted, which plat is on file with the town clerk: All parties interested will take notice that a hearing thereon will be had at [state place and hour of hearing] on the — day of — 18—, before the undersigned, when and where the correctness of said plat and survey will be examined, and approved if correct.

Dated — 18—.

C— D—, } Commissioners  
E— F—, } of  
G— H—, } Highways.

NOTE.— It would be well to preserve one copy of the notice, and attach it to the surveyor's report. After the hearing, the commissioners should make an order which may be in the following form:

## Order Ascertaining Old Road. Page 764.

Whereas a road leading from [here describe the road] in the town of —, in — county, Illinois, had once been laid out and not sufficiently described [or, has been used for twenty years but not recorded]; and whereas, by order of the undersigned a new survey thereof was lately made, as will appear by the report thereof, accompanied with plat, dated — 18—; and whereas due notice of said proceedings has been given to all parties interested, and opportunity allowed for objections thereto:

Now therefore, having heard all the evidence offered touching said road, and being fully advised of the facts therein, it is hereby ordered: that the old road on the line above described, of the width of — feet, is by us hereby ascertained, and will be entered of record according to law. Dated — 18—.

C— D—, } Commissioners  
E— F—, } of  
G— H—, } Highways.

NOTE.— All the foregoing papers should be fastened together, filed with the town clerk, and by him either recorded in full on the book of town records, or carefully preserved.

## ART. XVII. 1. Clause 5. Division of Town into Road Districts. Page 764.

We, the commissioners of highways for the town of —, in — county, Illinois, hereby divide said town into road districts, and each inhabitant thereof, liable to work on the highways, is hereby assigned to perform such work in the district where he now resides; said districts are as follows:

## Art. XVII. Roads, Highways and Bridges.

District 1. [Describe it by boundaries or sections.]

District 2. [Same as before, and continue with the rest.]

Dated —— 18—.

A—— B——, } Commissioners  
 C—— D——, } of  
 E—— F——, } Highways.

## ART. XVII. 2. Bond of Treasurer of the Commissioners of Highways. Page 765.

We, A—— B—— as principal, and C—— D—— and E—— F—— as sureties, all of the town of ——, in —— county, Illinois, are held and firmly bound to G—— H——, supervisor of said town, and to his successors in office, in the penal sum of —— dollars, for the payment of which well and truly to be made, we bind ourselves, our heirs, executors and administrators firmly by these presents.

The condition of the above bond is this:

Whereas said A—— B—— was lately chosen treasurer of the board of commissioners of highways for said town, and is about to enter upon the duties thereof: Now, if the said A—— B—— shall faithfully discharge his duties as such treasurer, and shall honestly and faithfully account for, and pay over upon the order of the commissioners of highways of said town, all moneys that shall come to his hands by virtue of his said office, then this obligation shall be void, otherwise to remain in full force and effect.

Witness our hands and seals this —— day of —— 18—.

A—— B——, (seal.)  
 C—— D——, (seal.)  
 E—— F——. (seal.)

## ART. XVII. 3. Account of Commissioners of Highways. Page 765.

To the board of town auditors of the town of ——, in —— county, Illinois: The annual account of the commissioners of highways of said town, for the year ending —— 18—, is as follows:

1. The labor assessed in said town was —— days; the labor performed was —— days, as shown by the returns of overseers of highways.

2. We have received from fines and commutations and all other sources, the sums following:

May 10, 18—. From A—— B——, overseer, balance due . . . . .	\$3 60
June 8, 18—. From C—— D——, penalty for [state why imposed] . . . . .	10 00
[Continue with any other items in like manner.]	
Total . . . . .	\$13 60

3. The improvements necessary on roads and bridges are [here state them.] The probable expense thereof, beyond what the assessed labor and road tax will accomplish, we estimate at —— dollars.

4. The expenses and damages in consequence of laying out, altering, and discontinuing roads, is as follows: [Here state them, giving the items.]

5. Received from town collector to this date —— dollars, which is all the money received. Paid out as follows:

To E—— F——, for —— days' labor working on road at [state where] . . . . .	\$ ——
To G—— H——, in full for repairing bridge at [state where] . . . . .	— —
Balance due to [or, from] said town —— dollars.	

Dated —— 18—.

L—— M——, } Commissioners  
 N—— O——, } of  
 P—— Q——, } Highways.

## ART. XVII. 7. Assessment of Highway Labor and Road Tax. Page 765.

We, the commissioners of highways for the town of ——, in —— county, Illinois, do hereby ascertain, estimate and assess on the persons and property liable thereto by law,

## Art. XVII. Roads, Highways and Bridges.

highway labor and road tax to be performed and paid in said town the next ensuing year, as follows: On each male inhabitant therein [two] days' labor. On each one hundred dollars' worth of property therein, as valued on the assessment roll of the past year, [twenty] cents road tax. Dated —— 18—.

A—— B——. } Commissioners  
C—— D——, } of  
E—— F——, } Highways.

ART. XVII. 8. *List of Highway Labor Assessed. Page 765.*

We, the commissioners of highways for the town of ——, in —— county, Illinois, having assessed on the persons liable thereto by law, the highway labor to be performed in said town the next ensuing year, namely: On each male inhabitant [two] days' labor, do hereby list the highway labor in road district [one] thereof as follows:

NAMES.		NO. DAYS' LABOR.	
A——	B——		2
C——	D——		2

Which list the town clerk is hereby directed to copy.

Dated —— 18—.

E—— F——, } Commissioners  
G—— H——, } of  
L—— M——, } Highways.

*List of Road Tax Assessed. Page 765.*

We, the commissioners of highways for the town of ——, in —— county, Illinois, having assessed on the persons and property liable thereto by law, the road tax to be paid in said town the next ensuing year, namely: On each one hundred dollars' worth of property therein as valued on the assessment roll of the past year, [twenty] cents road tax, do hereby list the road tax in road district [one] thereof as follows:

OWNER'S NAME.	DESCRIPTION.	ACRES.	VALUE PER ACRE.		TOTAL VALUE.		ROAD TAX.	VALUE OF PER. PROPERTY.		ROAD TAX.	TOTAL TAX.
			\$	c.	\$	c.		\$	c.		
A—— B——											

Which list the town clerk is hereby directed to copy.

Dated —— 18—.

E—— F——, } Commissioners  
G—— H——, } of  
L—— M——, } Highways.

ART. XVII. 12. *Notice of Assessment of Road Tax. Page 766.*

## ROAD TAX NOTICE.

Notice is hereby given that [twenty] cents on each one hundred dollars' worth of property in the town of ——, in —— county, Illinois, as valued on the assessment roll of the past year, has been assessed as road tax for the ensuing year, and that all persons interested can pay the same in labor on the highways, under the direction of the overseer of highways for the district where the property is situated. Dated —— 18—.

A—— B——, Town Clerk.

ART. XVII. 14. *Statement of Cost of Expensive Bridge. Page 766.*

To the town auditors: We, the commissioners of highways for the town of ——, in ——

## Art. XVII. Roads, Highways and Bridges.

county, Illinois, state that a bridge is necessary at [describe the place] in said town, and that the amount necessary for the construction thereof is as follows:

Total cost of the bridge will be . . . . .	\$500 00
Can be raised by ordinary road tax . . . . .	300 00
 Balance needed . . . . .	\$200 00
Dated —— 18—.	

A—— B——, } Commissioners  
C—— D——, } of  
E—— F——, } Highways.

*Certificate Annexed Thereto; made by Town Auditors. Page 760.*

To the board of supervisors of —— county, Illinois: We, the town auditors for the town of —— in said county, hereby certify that the foregoing statement has been made to us, and appears to be correct. Dated —— 18—.

G—— H——, Supervisor.  
L—— M——, Town Clerk.  
N—— O——, J. P.  
P—— Q——, J. P.

## ART. XVII. 15. Petition for Building or Repairing Bridge. Page 766.

To the board of supervisors of —— county, Illinois: We, legal voters of said county, represent that a bridge [or, road] at [state the place] needs to be constructed [or, repaired,] and that the same has been improperly neglected by the town wherein the same is situate: Wherefore we ask that the same may be remedied according to law.

Dated —— 18—.

[Signed by at least 25 voters.]

## ART. XVII. 20. Contract for Bridge on Town Line by Two Towns. Page 767.

This contract between A—— B——, C—— D—— and E—— F——, commissioners of highways for the town of ——, in —— county, Illinois, and G—— H——, L—— M—— and N—— O——, commissioners of highways for the town of —— in —— county, Illinois, all of the first part; and P—— Q——, of the second part, witnesseth: That whereas, said towns are jointly liable to build [or, repair] a bridge at [here describe the place.] Now therefore, said parties have and do hereby agree:

1. That said second party is to build a bridge at said place of the following description and materials: [state fully.]
2. That the same is to be fully completed by the —— day of —— 18—.
3. That said first parties will pay therefor the sum of —— dollars; whereof the commissioners of highways for said town of —— will pay —— dollars; and the commissioners of highways for the town of —— will pay —— dollars.
4. That such payment is to be made on and after the [state the date of payment.] Witness our hands this —— day of —— 18—.

A—— B——, } Commissioners  
C—— D——, } of Highways,  
E—— F——, } town of ——.  
G—— H——, } Commissioners  
L—— M——, } of Highways,  
N—— O——, } town of ——.  
P—— Q——,

## ART. XVII. 21. Notice to Rebuild or Repair Bridge. Page 767.

To the commissioners of highways for the town of ——, in —— county, Illinois: You are hereby notified to perform your proportion of rebuilding [or, repairing] a bridge at [describe the place] which bridge the towns of —— and —— are jointly liable to rebuild [or, repair,] and that unless you comply herewith within a reasonable time, the

## Art. XVII. Roads, Highways and Bridges.

undersigned will perform said work, and proceed against you for your proportion of the expense thereof, according to law. Dated — 18—.

A— B—, } Commissioners  
C— D—, } of Highways,  
E— F—, } town of —.

ART. XVII. 24. Clause 4. *List of those Liable to perform Highway Labor.* Page 767.

I, A— B—, overseer of highways in road district [one], in the town of —, in — county, Illinois, hereby certify that the names of all the inhabitants in said district liable to work on the highways are as follows :

NAMES.	NAMES.
A— B—	C— D—

Dated — 18—.

A— B—.

ART. XVII. 25. *Appointment of Overseer.* Page 767.

Whereas a vacancy has occurred in the office of overseer of highways for road district [one] in the town of —, in — county, Illinois: Now therefore, we, the commissioners of highways for said town, hereby appoint A— B— to fill said vacancy.

Dated — 18—.

C— D—, } Commissioners  
E— F—, } of  
G— H—, } Highways.

ART. XVII. 28. *Notice to perform Highway Labor.* Page 768.

To A— B—: You are notified to appear at [state place of working], on [state the day], at — o'clock, in the forenoon, with [state implements], to perform [two] days highway labor assessed against you as an inhabitant of road district [one] in the town of —, in — county, Illinois, for 18—. Dated — 18—.

C— D—, *Overseer of Highways.*

ART. XVII. 36. *Summons for Delinquent.* Page 769.

State of Illinois, — county. The people of the state of Illinois to any constable of the town of — in said county: Complaint on oath having been made before me by A— B—, overseer of highways for road district [one] in said town, that C— D—, an inhabitant thereof, after due notice has neglected to perform the highway labor assessed therein against him for the year 18— [or, *has neglected to furnish team or implements for highway labor*] as required by law; You are therefore commanded to summon said C— D— to appear forthwith before me at my office in said town, to show cause why he should not be fined according to law for such neglect. Witness my hand and seal this — day of — 18—.

E— F—, *J. P. (seal.)*

ART. XVII. 37. *Docket Entry on Complaint against Road Delinquent.* Page 769.

State of Illinois, — county. Before E— F—, Justice.  
The people of the State of Illinois } Complaint for not  
vs. } performing  
C— D—. } Highway labor.

On the — day of — 18—, A— B—, overseer of highways for road district [one] in the town of — in said county, complains of C— D— for neglect to perform highway labor [or, *as the case may be*], as required by law. Summons issued to constable G— H— for a hearing forthwith, and returned with defendant in court. The proofs and statements of the parties are heard, and the complaint is found true,

## Art. XVII. Roads, Highways and Bridges.

whereupon a fine of —— dollars is imposed, for which, together with —— dollars costs herein, a judgment is rendered against said C— D—. E— F—, J. P.

*Warrant Issued Thereon. Page 769.*

State of Illinois, —— county. The people of the state of Illinois to any constable of the town of —— in said county: We command you that of the goods and chattels of C— D— in your county, you levy and make the sum of —— dollars fine and —— dollars cost, which the people of the state of Illinois lately recovered before me in a certain plea against the said C— D—, and hereof make return to me how you have executed this writ. Given under my hand and seal this —— day of —— 18—.

E— F—, J. P. (seal.)

NOTE.—The duty of the constable with the foregoing writ, is to levy and sell as under an ordinary execution.

ART. XVII. 44. *Affidavit to Delinquent Road Tax List. Page 769.*

I, A— B—, overseer of highways for road district [one] in the town of ——, in —— county, Illinois, on oath say that on all tracts of land described in the annexed list, and on all personal property therein specified, opposite which the word "Paid" is not written, such tax is due and remains unpaid, according to the best of my belief and knowledge.

A— B—.

Sworn to before me this —— day of —— 18—.

E— F—, J. P.

ART. XVII. 49. *Annual Account of Overseer. Page 770.*

To the commissioners of highways for the town of ——, in —— county, Illinois: I, A— B—, overseer of highways for road district [one] in said town, render the following account:

1. The names of all persons assessed to work on highways in said district are :

NAMES.		NAMES.
A— B—		E— F—

2. The names of all those who have actually worked on the highway, and the number of days :

NAME.	DAYS.	NAME.	DAYS.
G— H—	2	L— M—	2

3. The names of all those who have been fined, and the amounts :

NAME.	AMOUNT.	NAME.	AMOUNT.
N— O—	\$3	P— Q—	\$6

4. The names of all those who have commuted, and the amount paid by each :

NAME.	AMOUNT.	NAME.	AMOUNT.
R— S—	\$4	T— U—	\$4

Total sum received from fines and commutations, —— dollars. I have expended —— dollars for [state what for ;] I have in my hands unexpended —— dollars.

5. The amount of uncollected land road tax is —— dollars; and of uncollected personal property tax is —— dollars. Dated —— 18—. A— B—.

## Art. XVII. Roads, Highways and Bridges.

ART. XVII. **52.** Award of Damages for taking Material for Road. Page 770.

Whereas, in pursuance of law, A— B— and C— D— have been chosen by E— F—, the overseer of highways for the town of —, in — county, Illinois; and whereas L— M— and N— O— have been chosen by G— H—, owner of the following land [*here describe it*], all four so chosen being householders in said town, and selected to assess the damages which said owner will sustain, by reason of the taking of certain material, namely: [*describe what is to be taken*] which taking has been found necessary for the building [or, repairing] of a certain bridge [or, causeway] at [*describe the place*], in said road district; said owner not consenting thereto: Now therefore, we, the said four householders, [*and P— Q—, the umpire by us chosen, if there be one.*] having viewed the premises and heard the parties, do hereby assess the damages to said G— H—, by the taking of said material, at — dollars, which is hereby awarded to him therefor. Witness our hands this — day of — 18—.

A— B—,  
C— D—,  
L— M—,  
N— O—,  
P— Q—.

ART. XVII. **53.** Award of Damages for Ditch or Drain. Page 771.

Whereas, in pursuance of law, A— B— and C— D— have been chosen by E— F—, the overseer of highways for the town of —, in — county, Illinois; and whereas L— M— and N— O— have been chosen by G— H—, owner of the following land [*here describe it*], all four so chosen being householders in said town, and selected to assess the damages which said owner will sustain, by reason of the opening of a ditch across said land which has been found necessary for road purposes, said owner not consenting thereto: Now therefore, we, the said four householders, [*and P— Q— the umpire by us chosen, if there be one,*] having viewed the premises and heard the parties, do hereby assess the damages to said G— H—, by said ditch, at — dollars, which sum is hereby awarded to him therefor. Witness our hands this — day of — 18—.

A— B—,  
C— D—,  
L— M—,  
N— O—,  
P— Q—.

ART. XVII. **54.** Petition for Discontinuing Road. Page 771.

To the commissioners of highways for the town of —, in — county, Illinois. The undersigned, legal voters residing within three miles of the following road [*here describe it,*] hereby petition you to discontinue the same. Dated — 18—.

[*Twelve or more signatures.*]

*Petition for Altering a Road. Page 771.*

To the commissioners of highways for the town of —, in — county, Illinois. The undersigned, legal voters residing within three miles of the following road [*describe it as it is,*] hereby petition you to alter said road to be as follows: [*describe it as you want it to be made.*] Dated — 18—.

[*Twelve or more signatures.*]

*Petition for New Road. Page 771.*

To the commissioners of highways for the town of —, in — county, Illinois. The undersigned, legal voters residing within three miles of the following route [*here describe the line of the road as wanted*], hereby petition you to lay out anew road the reon, of the width of [*four*] rods, and cause the same to be opened according to law.

The names of the owners of the lands over which said road is to pass are A— B—, C— D— and E— F—;\* [*or, are unknown.*] Dated — 18—.

[*Twelve or more signatures.*]

## Art. XVII. Roads, Highways and Bridges.

[In case a part of the owners are unknown, there should be a further statement in this form:] \* And said route is also to pass over certain lands whereof the owners' names are unknown, which lands are described as follows: [describe the lands.]

ART. XVII. **55.** *Notice of Petition; to be posted for twenty days.* Page 771.

## ROAD NOTICE.

Notice is hereby given that after the expiration of twenty days from the date thereof, a petition whereof the following is a copy will be presented to the commissioners of highways therein named.

[Here copy the petition; copy also the names.]

NOTE.—Three of the above notices having been posted as the law requires, the person who posted them should attach to the original petition his affidavit of the posting, which may be in this form:

*Affidavit that Notices have been Posted.* Page 771.

State of Illinois, —— county. A—— B—— on oath states that on the —— day of —— 18— he posted three copies of the foregoing petition, at three of the most public places in the town of ——, in —— county, Illinois, to wit: [state where posted.]

A—— B——.

Sworn to before me this —— day of —— 18—.

C—— D——, J. P.

ART. XVII. **57.** *Notice of the Hearing; given by the Commissioners.* Page 771.

## ROAD NOTICE.

A petition having been presented to the commissioners of highways for the town of ——, in —— county, Illinois, for a new road on the following route, [describe it.] Said commissioners hereby give notice that on the —— day of —— 18—, at [state the place of hearing], at —— o'clock in the forenoon, they will meet to hear any reasons that may be offered for or against laying out said road. Dated —— 18—.

A—— B——, } Commissioners  
C—— D——, } of  
E—— F——, } Highways.

NOTE.—The foregoing form can easily be varied to suit a petition for altering or discontinuing a road. But in case the commissioners should determine not to alter, discontinue, or lay out any road so petitioned for, that fact must be noted on the back of said petition, and may be in the following form:

ART. XVII. **58.** *Denial of Road Petition.* Page 771.

The commissioners of highways to whom the within petition is directed, have duly considered the same, and have determined not to lay out the road therein named.

Dated —— 18—.

A—— B——, } Commissioners  
C—— D——, } of  
E—— F——, } Highways.

*Report of Survey; either for New Road, Alteration, or Discontinuance.* Page 771.

To the commissioners of highways in the town of ——, in —— county, Illinois: Pursuant to your directions I have surveyed a road, the correct description of which is as follows: [give the correct description] and a plat thereof in form as required by law, accompanies this report. Dated —— 18—.

G—— H——, Surveyor of —— county.

NOTE.—In case of alteration or discontinuance, it might be well to let the plat show the old road as well as the new.

*Order laying out New Road.* Page 771.

Whereas a petition signed by twelve legal voters was presented to the commissioners of highways for the town of ——, in —— county, Illinois, due notice whereof had first

## Art. XVII. Roads, Highways and Bridges.

been given, praying that the following new road might be laid out and opened, namely : [here describe the road as in the petition ;] which voters all resided within three miles of said proposed road ;

And whereas said commissioners did, on the —— day of —— 18—, meet and hear all reasons offered for or against said proposed road, due notice of the time and place of said meeting having first been given to all parties interested as the law requires, and having personally examined said route, and being therein fully advised, thereupon determined to lay out such new road, the public interest so requiring ;

And whereas afterwards, said commissioners caused a survey of said proposed road to be made by a competent surveyor, in the manner required by law, which survey and the plat accompanying, is hereto attached and made part of this order ;

Now therefore, we the said commissioners, by virtue of the above recited facts, and in pursuance of law, do hereby declare that the road set forth in the said survey and plat is a public highway —— rods wide, and that the line of said survey is the center thereof ; and we do further order that said road be opened and worked as the law requires.

Dated —— 18—.

A— B—, } Commissioners  
C— D—, } of  
E— F—, } Highways.

NOTE.—The report and plat of the surveyor should be attached to the foregoing order ; also to the next.

*Order Altering a Road. Page 771.*

Whereas a petition signed by twelve legal voters was presented to the commissioners of highways for the town of ——, in —— county, Illinois, due notice whereof had first been given, praying that the road now running as follows : [describe the line of the old road,] might be altered to run as follows : [describe the new line ;] which voters all resided within three miles of said road ;

And whereas said commissioners did, on the —— day of —— 18—, meet and hear all reasons offered for or against said proposed alteration, due notice of the time and place of said meeting having first been given to all parties interested as the law requires, and having personally examined said route, and being therein fully advised, thereupon determined to make the said alteration, the public interest so requiring ;

And whereas afterwards, said commissioners caused a survey of said alteration to be made, [including the line of the old road, if included,] by a competent surveyor, in the manner required by law, which survey and the plat accompanying, is hereto attached and made part of this order :

Now therefore, we the said commissioners, by virtue of the above recited facts, and in pursuance of law, do hereby declare that the new line of said road as set forth in the said survey and plat is a public highway —— rods wide, and that the line of said survey is the center thereof ; and we do further order that said road as hereby altered be opened and worked as the law requires. Dated —— 18—.

A— B—, } Commissioners  
C— D—, } of  
E— F—, } Highways.

NOTE.—The preceding form can easily be varied to suit a discontinuance of road, omitting the part about "survey."

**ART. XVII. 62. Agreement concerning Road Damages. Page 772.**

Whereas on the —— day of —— 18—, an order was made in pursuance of law, by the commissioners of highways for the town of ——, in —— county, Illinois, for laying out a road as follows : [here describe it as in the order,] which road is supposed to damage the following land : [here describe it ;] Now therefore it is hereby agreed between the commissioners of highways of said town, and L— M— owner of said land, that the damage to said land, by the laying out and opening and working of said road, is —— dollars, after deducting all benefits and advantages. Dated —— 18—.

A— B—, } Commissioners  
C— D—, } of  
E— F—, } Highways.  
L— M—.

## Art. XVII. Roads, Highways and Bridges.

*Release of Road Damages. Page 772.*

Whereas on the —— day of —— 18—, an order was made in pursuance of law, by the commissioners of highways for the town of ——, in —— county, Illinois, for laying out a road as follows: [here describe it as in the order.] which road is supposed to damage the following land; [describe it.]

Now therefore I, A—— B——, owner of said land, in consideration of the premises and of the benefit of said road to me, [or, in consideration of —— dollars,] do hereby release all damages sustained by me by the laying out, opening and working of said road.

Dated —— 18—.

A—— B——. (seal.)

*Assessment of Damages; made by the Commissioners. Page 772.*

Whereas on the —— day of —— 18—, an order was made in pursuance of law, by the commissioners of highways for the town of ——, in —— county, Illinois, for laying out a road as follows: [here describe it as in the order,] by reason whereof damages are claimed by the owners of the following lands:

DESCRIPTION OF TRACT	OWNER.
S. E. $\frac{1}{4}$ sec. 10, town —— range ——.	A—— B——

And whereas said commissioners and said owners are unable to agree on said damages; Now therefore, we the commissioners of highways for said town, in pursuance of law, hereby assess the damages at what we deem just and right, to each of said individual claimants, (having first estimated and deducted the advantages and benefits,) by reason of the laying out, opening and working of said road, as follows:

To A—— B——, \$250.  
To C—— D——, 100.

[And so on through the list.]

Dated —— 18—.

E—— F——, } Commissioners  
G—— H——, } of  
L—— M——, } Highways.

ART. XVII. **64.** *Petition to the Supervisors for Relocation of State Road. Page 772.*

To the board of supervisors of —— county, Illinois: The undersigned, legal voters of said county, residing within three miles of the following state road [describe it as it is,] represent that the public interest requires said road to be relocated and be as follows: [describe it as you want it to be made] for which change we do hereby petition.

Dated —— 18—.

[Thirty-five signatures, at least.]

*Petition to the Supervisors for Vacation of State Road. Page 772.*

To the board of supervisors of —— county, Illinois: The undersigned, legal voters of said county, residing within three miles of the following state road [here describe it,] represent that the same is useless and burthensome, and that the public interest requires the same should be vacated, for which we do hereby petition. Dated —— 18—.

[Thirty-five signatures, at least.]

*Notice to Viewers; to be attached to Petition. Page 772.*

To A—— B——, C—— D—— and E—— F——: Take notice that the board of supervisors, in pursuance of law, have appointed you to be viewers to examine the road set forth in the foregoing petition. Dated —— 18—.

G—— H——, Clerk.

## Art. XVII. Roads, Highways and Bridges.

*Oath of Viewers; to be attached after the above Notice. Page 772.*

State of Illinois, — county. We do solemnly swear that we will faithfully and impartially perform our duties as viewers of the road set forth in the foregoing petition.

A—B—,  
C—D—,  
E—F—.

Sworn to before me this — day of — 18—.

L—M—, J. P.

## ART. XVII. 65. Report of Viewers. Page 772.

To the board of supervisors of — county: We, the viewers appointed by your board in pursuance of the foregoing petition, hereby report that after being duly sworn we proceeded to examine the old road described in said petition, to wit: [describe it,]\* and find the same to be useless and burthenesone and that the public interest requires the same to be vacated, as petitioned for. Dated — 18—.

A—B—,  
C—D—,  
E—F—, } Viewers.

*Same; in case of Relocation.*

[Follow above form to \* and conclude:] and find that the public interest requires said road to be relocated on the following line [describe the new route] as petitioned for.

Dated — 18—.

A—B—,  
C—D—,  
E—F—.

## ART. XVII. 66. Notice of Petition to Board of Supervisors. Page 773.

## ROAD NOTICE.

Public notice is hereby given that at the next meeting of the board of supervisors of — county, Illinois, a petition will be presented praying that the road now as follows: [describe it as it is,] be changed so as to run on the following line, namely: [describe the proposed line.] Dated — 18—.

[Names.]

[Names.]

NOTE.—The names of the signers of the petition should appear at the foot of each notice, and may be copied from the petition. So also of the next following notice. Proof of the posting of the above notice may be made by affidavit, as follows:

*Proof of Posting; to be added at the Foot of one of the Notices. Page 773.*

State of Illinois, — county. A—B— on oath states that on the — day of — 18—, he posted a notice, of which the foregoing is a copy, in three public places on the route of the road therein described, and on the door of the court house and the office of the county clerk in said county. A—B—.

Sworn to before me this — day of — 18—

C—D—, J. P.

## ART. XVII. 71. Notice for Re-Survey. Page 773.

## ROAD NOTICE.

Notice is hereby given that after the expiration of ten days from the date hereof, application will be made to the commissioners of highways for the town of —, in — county, Illinois, for the re-survey of the following road, [describe it,] as being an old road laid out prior to the adoption of township organization in said county, and traveled as a highway for five years; [or, open through uninclosed land for five years.]

Dated — 18—.

[Names.]

[Names.]

## Art. XVII. Roads, Highways and Bridges.

ART. XVII. **71.** *Proof of Posting the above Notice.* Page 773.

State of Illinois, — county. A— B— on oath states that on the — day of — 18—, he posted a notice of which the above is a copy, in three public places in the neighborhood of the road therein described, namely: at [state where posted.]

A— B—.

Sworn to before me this — day of — 18—.

E— F—, J. P.

*Application for Re-Survey of Road.* Page 773.

To the commissioners of highways for the town of —, in — county, Illinois: The undersigned, freeholders residing within three miles of the following road: [here describe it] hereby petition that the same may be re-surveyed and more perfectly described according to law, which road was laid out prior to the adoption of township organization in said county, and after being laid out \* was opened and traveled for the space of five years, [or, \* remained open through uninclosed land for the space of five years,] do hereby apply to have the same re-surveyed and more perfectly described, according to law. Dated — 18—.

[Twelve or more freeholders sign.]

*Certificate after Re-Survey.* Page 773.

Whereas an application signed by twelve freeholders was presented to the commissioners of highways for the town of —, in — county, Illinois, due notice whereof had first been given, asking that the following old road might be re-surveyed and more perfectly described, namely: [here describe the old road] which freeholders all resided within three miles of said road.

And whereas, said commissioners \* did afterwards consult the original field notes and survey of said road [or, \* did seek and were unable to find any of the original field notes or surveys of said road], and did hear any and all other evidence, written or parol, which was offered in relation to the original location of said road, and the time and manner of traveling the same, and being satisfied that said road had been laid out prior to the adoption of township organization, and after being laid out \* was opened and traveled for the space of five years, [or, \* remained open through uninclosed land for the space of five years ;] And whereas we have lately caused said road to be re-surveyed:

Now therefore, we the said commissioners, in accordance with the evidence before us, do hereby re-establish the said road upon the following line, [here describe it.] a plat whereof is hereto attached and made part of this order, and the same we hereby determine to be the correct line of said road. Dated — 18—.

A— B—, } Commissioners  
C— D—, } of  
E— F—, } Highways.

**74.** NOTE.— In taking an appeal in a road case it is not necessary to copy all the papers. When the case is ready for hearing before the three supervisors, let a subpoena be sent for the town clerk, commanding him to appear and produce the original papers. Many times, the appeal can be conveniently heard at the office of the town clerk. The following short forms are all that is required for an appeal :

ART. XVII. **74.** *Appeal from an Order of Commissioners of Highways, laying out, refusing to lay out, or discontinuing a Road; taken by one or more.* Page 773.

To the town clerk of the town of —, in — county, Illinois: The undersigned, feeling himself [or, themselves] aggrieved by an order of the commissioners of highways for said town, dated — 18—, and on the [same] day filed\* in your office,\* laying out [or, refusing to lay out, or, discontinuing] the following road [describe it]\* hereby appeals from said order to three supervisors of said county, as provided by law. The ground of this appeal is as follows: [state the reasons for appealing, fully and carefully.] This appeal is brought to reverse entirely the aforesaid order; [or, if in part, state what part you wish reversed.] Dated — 18—. [Those who appeal must all sign.]

## Art. XVII. Roads, Highways and Bridges.

*Appeal from an Order of Commissioners altering a Road; taken by one or more. Page 773.*

To the town clerk of the town of ——, in —— county, Illinois: The undersigned, feeling himself [or, themselves] aggrieved by an order of the commissioners of highways for said town, dated —— 18—, and on the [same] day filed in your office, \* altering the following road [describe the existing road,] so as to run on a different line, namely: [describe the new route]\* hereby appeals from said order to three supervisors of said county, as provided by law. The ground of this appeal is as follows: [state the reasons for appealing, fully and carefully.] This appeal is brought to reverse entirely the aforesaid order; [or, if in part, state what part you wish reversed.] Dated —— 18—.

[Those who appeal must all sign.]

*Appeal from an Order of Commissioners Assessing Damages on laying out of Road. Page 773.*

To the town clerk of the town of ——, in —— county, Illinois: Whereas the commissioners of highways for said town made an order dated —— 18—, laying out the following road [describe it], and did afterwards make an assessment, dated —— 18—, and on the [same] day filed in your office, of the damages sustained by the undersigned by reason of the laying out, opening and working of said road, as follows:

DESCRIPTION OF LAND DAMAGED.	OWNER'S NAME.	DAMAGES ALLOWED.
N. E. $\frac{1}{2}$ sec. 27, town —— range ——.	A—— B——.	\$250.

Now therefore in pursuance of law, we the undersigned do hereby appeal from said order of assessment, to three supervisors of said county. The ground of this appeal is as follows: [state the reasons for appealing, fully and carefully.] This appeal is brought to reverse so much of said assessment order as fixes the amounts of damages as above mentioned; such amounts being in each case manifestly insufficient. Dated —— 18—.

[Those who appeal must all sign.]

**ART. XVII. 76. Bond on Road Appeal; in case of laying out, discontinuing, or altering Road. Page 774.**

We, A—— B—— as principal, and C—— D—— and E—— F—— as sureties, all of the town of ——, in —— county, Illinois, are held and firmly bound unto the supervisor of said town and his successor in office, in the penal sum of [let the clerk insert a sufficient amount] for the payment of which well and truly to be made, we bind ourselves, our heirs, executors and administrators, firmly by these presents.

The condition of the above bond is this: Whereas said A—— B—— is about to appeal from an order of the commissioners of highways for said town dated —— 18—, [here copy from the foregoing appeal that part between \* and \*;] Now if the said A—— B—— shall pay all costs arising from such appeal in case the determination of the commissioners of highways in the premises shall not be reversed, then the above bond shall be void; otherwise to remain in full force and effect. Witness our hands and seals this —— day of —— 18—.

A—— B——, (seal.)  
C—— D——, (seal.)  
E—— F——. (seal.)

The above bond is approved. Dated —— 18—.

G—— H——, Town Clerk.

*Bond on Appeal from Assessment of Damages for laying out Road. Page 774.*

We A—— B—— as principal, and C—— D—— and E—— F—— as sureties, all of the town of ——, in —— county, Illinois, are held and firmly bound unto the supervisor of said town and his successor in office, in the penal sum of [let the clerk insert a sufficient amount] for the payment of which well and truly to be made, we bind ourselves, our heirs, executors and administrators, firmly by these presents.

The condition of the above bond is this: Whereas the said A—— B—— is about to

## Art. XVII. Roads, Highways and Bridges.

appeal from an assessment of damages made by the commissioners of highways for said town, which assessment was dated —— 18—, and was for the damages sustained by the said A—— B—— by reason of the laying out, opening and working of the following road [describe it ;] Now if the said A—— B—— [conclude as in the preceding form.]

**ART. XVII. 78. Certificate of the selection of three Supervisors; made by Town Clerk.** *Page 774.*

I, G—— H——, town clerk of the town of ——, in —— county, Illinois, do hereby certify that in pursuance of law I have selected L—— M——, P—— Q—— and R—— S——, supervisors of said county, to hear and determine an appeal dated —— 18—, taken before me by A—— B——, from an order [or, assessment] made by the commissioners of highways for said town, dated —— 18—, and touching the following road [here describe it], as in said appeal is fully set forth. Dated —— 18—.

G—— H——, Town Clerk.

*Notice to be given to Supervisors by the person taking an appeal. Page 774.*

To P—— Q——, supervisor: Take notice that in pursuance of law you have been selected by G—— H——, town clerk of the town of ——, in —— county, Illinois, to hear and determine an appeal dated —— 18—, and taken by me before said clerk from an order [or, assessment] of the commissioners of highways for said town, dated —— 18—, and touching the following road [here describe it], as in said appeal is fully set forth.

Dated —— 18—.

A—— B——

**ART. XVII. 80. Notice of Appeal to Commissioners of Highways and Petitioners. Page 774.**

To the commissioners of highways for the town of ——, in —— county, Illinois, and to A—— B——, C—— D—— and E—— F——, petitioners for the road in question: Take notice that by an appeal in pursuance of law, dated —— 18—, and taken before G—— H——, town clerk of said town, I have appealed from an order [or, assessment] made by the commissioners of highways for said town dated —— 18—, and touching the following road [here describe it], as in said appeal is fully set forth; that L—— M——, P—— Q—— and R—— S——, three supervisors of said county, have been duly selected to hear and determine said appeal, and that such hearing will take place on the —— day of —— 18—, at [state the hour and place of hearing.] Dated —— 18—.

Y—— Z——.

*Affidavit of the service of the foregoing Notice; to be attached to one of the Notices. Page 774.*

Y—— Z—— on oath states that on the —— day of —— 18—, he delivered to each of the persons to whom the foregoing notice is directed, a true copy thereof; except A—— B——, at whose dwelling-house he did, on the same day, leave a like true copy.

Y—— Z——.

Sworn to before me this —— day of —— 18—.

E—— M—— J. P.

**ART. XVII. 81. Subpna by Supervisors for Witnesses. Page 774.**

State of Illinois, —— county. The people of the state of Illinois to A—— B—— and C—— D——: We command you to appear on the —— day of —— 18—, at [state the hour and place of hearing] to testify in a certain appeal there to be heard before the undersigned, in pursuance of law, which appeal was taken by E—— F—— from an order [or, assessment] of the commissioners of highways for the town of —— in said county, touching a certain road. Hereof fail not. Dated —— 18—.

L—— M——, Supervisor of the town of ——,  
P—— Q——, Supervisor of the town of ——,  
R—— S——, Supervisor of the town of ——.

## Art. XVII. Roads, Highways and Bridges.

*Order of the three Supervisors after hearing the Appeal. Page 774.*

Whereas the commissioners of highways for the town of ——, in —— county, Illinois, made an order [or, assessment] dated —— 18—, touching a certain road, a copy whereof is hereto annexed;

And whereas A—— B—— did, by an appeal in writing filed with the town clerk of said town, dated —— 18—, appeal from said order [or, assessment] to three supervisors of said county, a copy whereof is also annexed;

And whereas the town clerk of said town did thereupon, by his certificate in pursuance of law, dated —— 18—, select the undersigned as the three supervisors to hear and determine said appeal, a copy whereof is also annexed;

Now therefore, we the said three supervisors, having this day met for the purpose of hearing the said appeal, due notice of the time and place whereof have been given as required by law to all parties interested, and having heard all the proofs and allegations of said parties and personally examined said route, and duly considered the matter of said appeal,

Do hereby adjudge and order: That the action of the commissioners of highways touching the matter in this appeal be \* confirmed; and that the following road, as set forth in their said order, [here describe it] is hereby laid out and established as a public highway, —— rods wide, and shall be opened and worked as the law requires.

Dated —— 18—.

C—— D——, Supervisor of the town of ——,  
E—— F——, Supervisor of the town of ——,  
G—— H——, Supervisor of the town of ——.

[*If an order laying out a new road is reversed, proceed in this manner from \**] reversed; and that the following road as set forth in their said order [describe it,] be not laid out nor established as a public highway. Dated —— 18—.

[Signed as above.]

NOTE.—The above forms will answer, with slight variation, for an order confirming or reversing a discontinuance of road.

[*If an assessment of damages is confirmed, proceed in this manner from \**] confirmed; and that the assessment made by them of the damages, by reason of the laying out, opening and working of the following road: [here describe it], sustained by the several parties taking this appeal, be approved and confirmed as follows:

To A—— B——, \$250.

Dated —— 18—.

[Signed as before.]

[*If an assessment of damages is altered in part, proceed in this manner from \**] set aside; and that the assessment of damages sustained by reason of the laying out, opening and working of the following road [describe it], be as follows:

To A—— B——, \$250.

Dated —— 18—.

[Signed as before.]

[*If an alteration in a road is confirmed, proceed in this manner from \**] confirmed; and that the road now as follows [describe the old line] hereby is changed and altered to run on the following line [describe the new route,] and as so changed is declared a public highway —— rods wide, and shall be opened and worked as such. Dated —— 18—.

[Signed as before.]

[*If an alteration is reversed, proceed in this manner from \**] reversed; and that the road now as follows [here describe it] shall remain as a public highway, unchanged and unaltered. Dated —— 18—.

[Signed as before.]

[*If the alteration in the first order is disapproved and a different change made, proceed in this manner from \**] set aside; and that the road now as follows [describe the old line]

## Art. XVII. Roads, Highways and Bridges.

hereby is changed and altered to run on a line which we have selected, namely : [describe the last alteration ;] and as so changed is declared a public highway — rods wide, and shall be opened and worked as such. Dated — 18—.

[Signed as before.]

[If the refusal to lay out a road is reversed, proceed in this manner from \*] reversed ; that the public interest requires the following road to be laid out in accordance with the prayer of the original petition in that behalf, namely : [describe the road as laid out ;] and having caused a survey and plat of said road to be made by a competent surveyor, which survey and plat is hereto attached, we do order and declare that the said road be laid out and established as a public highway — rods wide, and be opened and worked as such. Dated — 18—.

[Signed as before.]

## ART. XVII. 88. Statement of Damages and Charges in Road Case. Page 775.

To the board of town auditors for the town of —, in — county, Illinois : The following is a statement of the damages and charges for laying out [or, altering ; or, discontinuing] the following road in said town, namely : [describe it.] Damages as fixed by the commissioners of highways for said town, [or, by three supervisors on appeal :]

To A— B—, \$—

[Continue with others, if any.]

Charges of officers and others :

C— D—, surveyor, for — days' labor, \$—

E— F—, supervisor, for — days' labor, \$—

Total, \$—

Dated — 18—.

L— M—, } Commissioners  
N— O—, } of  
P— Q—, } Highways.

## Certificate of the Auditors. Page 775.

We, the auditors for said town of —, hereby certify that the foregoing statement of damages and charges has been examined by us and found correct. Dated — 18—.

R— S—, Supervisor.

T— U—, Town Clerk.

V— W—, J. P.

X— Y—, J. P.

## Town Clerk's Certificate of Amount. Page 775.

I, A— B—, town clerk of the town of —, in — county, Illinois, do hereby state that the aggregate amount of the damages and charges for laying out [or, altering, etc.] the following road [describe it] as agreed upon by the commissioners of highways [or, as settled by the three supervisors] and certified by the town auditors is — dollars. Which statement I certify to be true, as appears by the records on file in my office.

Dated —, 18—.

A— B—, Town Clerk.

## ART. XVII. 89. Petition to the Board of Supervisors. Page 776.

To the board of supervisors for — county, Illinois : The undersigned represent that the commissioners of highways for the town of —, in — county, Illinois, made an assessment, dated — 18—, of the damages sustained by reason of the laying out [or, altering] of the following road [describe it,] from which assessment an appeal was taken by A— B— to three supervisors of said county, to wit: C— D—, E— F— and G— H—. That after a hearing thereon as provided by law, said three supervisors made a final decision and assessment of the said damages, as follows :

To L— M—, \$—

To N— O—, \$—

Total, \$—

## Art. XVII. Roads, Highways and Bridges.

Your petitioners represent that said damages are manifestly too high, and that in providing for the payment thereof an oppressive tax will have to be levied on the property of said town, wherefore they ask for relief in behalf of said town, against the whole [or, a part] of said damages, as provided by law. Dated — 18—.

P—	Q—, <i>Supervisor.</i>
R—	S—, <i>Town Clerk.</i>
T—	U—, <i>J. P.</i>
V—	W—, <i>J. P.</i>
X—	Y—, } <i>Commissioners</i>
E—	M—, } <i>of</i>
F—	N—, } <i>Highways.</i>

**91.** NOTE.— The petition for a road on a town line should be signed by twelve in each town. Notices should be posted as in other cases, in both towns.

ART. XVII. **91.** *Order laying out a Road on Town Line. Page 776.*

Whereas a duplicate petition signed by twelve legal voters from each town was presented to the respective commissioners of highways for the towns of — and —, in — county, Illinois, due notice whereof had first been given, praying that the following new road on the line between said two towns, might be laid out and opened, namely : [describe the road ;] which voters all resided within three miles of said proposed road ;

And whereas said commissioners did, on the — day of — 18—, meet and hear all reasons offered for or against said proposed road, due notice of the time and place of said meeting having first been given to all parties interested as the law requires, and having personally examined said route, and being therein fully advised, thereupon determined to lay out such new road, the public interest so requiring ;

And whereas afterwards, said commissioners caused a survey of said proposed road to be made by a competent surveyor, in the manner required by law, which survey and the plat accompanying, is hereto attached and made part of this order ;

Now therefore, we the said commissioners for said two towns, — and —, by virtue of the above recited facts, and in pursuance of law, do hereby declare that the road set forth in the said survey and plat is a public highway — rods wide, and that the line of said survey is the center thereof, and we order that said road be opened and worked as the law requires. It is further ordered that said road be divided into [two] road districts, one being allotted to each town to be opened, worked and kept in repair, namely : To the town of — as follows : [describe one district.] And to the town of — as follows : [describe the other.] Dated — 18—.

— —, } <i>Commissioners</i>
— —, } <i>of Highways,</i>
— —, } <i>town of —.</i>
— —, } <i>Commissioners</i>
— —, } <i>of Highways,</i>
— —, } <i>town of —.</i>

ART. XVII. **96.** *Notice for Removing Fence. Page 776.*

To A— B— : Take notice that the commissioners of highways for the town of —, in — county, Illinois, made an order dated — 18—, laying out the following road, [describe it ;] which order was duly deposited with the town clerk of said town, and not appealed from within the time required by law : You are therefore required, as the owner [or, occupant] of the following inclosed land [describe it,] a part of which is within the limits of said road, to remove all your fences to the bounds of said road within sixty days after this notice is served upon you. Dated — 18—.

C— D—, } <i>Commissioners</i>
E— F—, } <i>of</i>
G— H—, } <i>Highways.</i>

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Art. XVII. Roads, Highways and Bridges.

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*Same : Where Appeal has been taken to three Supervisors. Page 776.*

To A— B— : Take notice that three supervisors of — county, Illinois, on an appeal regularly before them in pursuance of law, made an order, dated — 18—, laying out the following road, [describe it] which order was duly deposited with the town clerk of the town of —, in said county: You are therefore required, as the owner [or, occupant] of the following inclosed land [describe it.] a part of which is within the limits of said road, to remove all your fences to the bounds of said road within sixty days after this notice is served upon you. Dated — 18—.

C— D—, } Commissioners  
E— F—, } of  
G— H—, } Highways.

NOTE.—The following affidavit should be attached to a copy of the notice, and then deposited with the town clerk.

*Proof of Service of Notice. Page 776.*

State of Illinois, — county. G— H— on oath states that on the — day of — 18—, he delivered to the said A— B— a notice whereof the foregoing is a true copy. G— H—.

Sworn to before me this — day of — 18—.

E— M—, J. P.

## ESTRAY FORMS.

### *Notice of the Taking up of an Estray Animal.*

The following form embodies precisely what the law requires on the taking up of any estray HORSE MARE, COLT, MULE or Ass : see § 1. But for any estray NEAT CATTLE, SHEEP, HOG or GOAT, the line marked \* may be omitted, because in those cases it is not necessary to state the "stature" of the estray : see § 4.

#### ESTRAY NOTICE.

Taken up by me as an estray at my place of residence in the town of —— in —— county, Illinois, one horse described as follows :

Marks. *Star in forehead.*

Brands. *E. F. on right shoulder.*

\*Stature. *About 14 hands high.*

Color. *Dark bay.*

Age. *About six years.*

Which I shall have appraised according to law. Dated —— 18—.

A—— B——,  
*Householder of said County.*

Five copies of the above notice should be made, for the following purposes : *First.* Three copies must be posted by the taker up, in three of the most public places in the town, as soon as may be : see § 1. *Second.* Within five days after the taking up, one copy should be left with the town clerk, to be registered by him : see §§ 6 and 7. *Third.* To the fifth copy may be attached or added the following affidavit, which is to be sworn to before the justice and filed with him not less than 10, and not more than 15 days after the posting of the notices. This form includes both the "oath" of the taker up, as required in § 1, and the "proof" of notice, as required by § 11.

#### *Affidavit.*

State of Illinois, county of ——, town of ——. A—— B—— on oath says he is a householder of said town, and took up the above estray at his place of residence therein, the marks and brands whereof have not been altered since the taking up. That on the —— day of —— 18— he posted three notices of which the above is a true copy, one at ——, one at —— and one at ——, those being three of the most public places in said town. A—— B——.

Sworn to before me this —— day of —— 18—. L—— M——, J. P.

As soon as such an affidavit is filed with a justice, he should at once issue a warrant for the appraisement. To save the labor of writing a long writ, the shortest and best plan is for the justice to attach or add his Warrant at the end of the Affidavit mentioned above. It may then be in the following form which is very short, and yet embodies all that the law requires, namely : It Appoints the appraisers, and Cites them to appear as such : see § 2. This warrant need not be served by a constable ; like a subpoena it may be served by any convenient person — the taker up, for instance.

#### *Warrant of Appraisement.*

To G—— H——, N—— O—— and R—— S——. You, being three disinterested housekeepers in the neighborhood, are hereby appointed appraisers, and required to appear before me forthwith [or, *on the —— day of —— 18—, at —— o'clock — M.,*] to appraise the above described stray, as required by law. Given under my hand and seal this —— day of —— 18—. L—— M——, J. P. (seal.)

## Appraisement.—Certificate.

The easiest and best way to prepare the Appraisement is to attach or add it to the preceding papers, after the Warrant of Appraisement. It may then be in the following short form, signed by each of the appraisers and sworn to. It thus serves both as the appraisers' oath, and as their appraisement: see § 2.

*Appraisement.*

We the undersigned, appraisers appointed by L— M—, J. P., hereby report that we have seen and examined an estray *horse* taken up by A— B— and posted on the — day of — 18—, of the following description:

Marks. *Star in forehead.*

Brands. *E. F. on right shoulder.*

\*Stature. *About 14 hands high.*

Color. *Dark bay.*

Age. *About six years.*

Which estray we have appraised without partiality, favor or affection, and valued at — dollars.

G— H— }  
N— O— }  
R— S— } *Appraisers.*

Sworn to before me this — day of — 18—. E— F—, J. P.

As remarked above, it is only necessary to mention the "stature" where the estray is a "horse, mare, colt mule or ass;" in all other cases that item may be omitted. In every estray proceeding, the law requires the appraisement and description of the animal to be entered in a book to be kept by the justice. His regular docket is such a book, and a proper entry therein will fully meet all the requirements of the law: see § 2. Such a docket entry may be as follows:

*Docket Entry — Estray Case.*

One Estray Horse } [Date.] A— B— having made oath of taking up and proof  
Taken up by } of posting as required by law, a warrant of appraisement is issued to  
A— B— } three disinterested housekeepers of the neighborhood, who return  
their sworn appraisement as follows: [Here copy the Appraisement.] Whereupon the  
said Affidavit, Warrant and Appraisement are certified and transmitted to the county  
clerk in pursuance of law. L— M—, J. P.

Having made the foregoing entry in his docket, the justice is ready to make his report to the county clerk. This he must do within 10 days after the appraisement is made: see § 3. All the papers are attached together in the following order: Notice and Affidavit; Warrant; Appraisement. These original papers should all be delivered to the county clerk, after being certified; the entry on his docket, in the form given above, is all that the justice need retain. His certificate may be as follows:

*Certificate.*

State of Illinois, — county, town of —. I, L— M—, a justice in said town, hereby certify that the foregoing proceedings in relation to the estray above described, were had before me as such justice, as appears from my docket.

L— M—, J. P. (seal.)



THE  
ORGANIC  
LAWS OF ILLINOIS

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SPRINGFIELD  
E. L. & W. L. GROSS  
1872

## INDEX TO PRIVATE LAWS.

There is, in the State of Illinois, an immense mass of legislation, known by the general name of Private Laws. Part of these laws are found scattered indiscriminately through all the volumes ever issued by the State, no care having been taken to separate public and private acts. Hence, every volume of session laws will be found to contain very many private acts. But besides these books, commonly spoken of as Public Laws, the State had issued up to January 1869, nineteen different volumes, which contain only private acts and nothing else, namely: Private acts of 1827, 1833, 1837, 1839, 1847, 1849, 1851, 1853, 1854, 1855, 1857, 1859, 1861, 1863, 1865 (2 vols.), and 1867 (3 vols.).

These private laws are not without their interest. Many of them have an abiding value. They comprise all the charters of the various Railroads, Banks, Plank-roads, Bridge Companies, Ferry Companies, Fire Companies, Manufacturing Companies, Navigation Companies, Insurance Companies, and all the other multitude of enactments by which capital has protected itself and developed the State. There are also, charters for Agricultural Societies, Horticultural Societies and Entomological Societies; for Societies Benevolent, Religious and Charitable; Societies Literary, Historical and Secret; for all the various societies, in a word, intended to increase human pleasure and diminish pain. There also appear the Charters for Cities, Towns and Villages, as well as for Colleges, Academies, Seminaries, Schools and other Institutions of Learning. There too must be sought the numerous Local Acts which have been passed for the benefit and advantage of all the different counties: those authorizing or confirming the issue of bonds for Court Houses, Poor Houses, School Houses, Jails, Bridges, Levees and Turnpikes; providing for Special Taxes to pay War Bonds or Railroad Subscriptions, for the protection of Game or Fish, for changing the Descent of Property or the Names of Persons or Places, for authorizing Special Conveyances, and in many other ways affording a special relief.

And besides all the Original acts of all the several sorts we have just indicated, there is also a great cloud of Amending acts which were designed to alter, explain, extend, limit or modify the original acts in all these various classes of cases.

There is thus a vast body of legislation, comprising many thousands of different acts, passed at many different times, upon which a large number of important rights depend, and by which alone hundreds of suits are each year decided. These acts have been published in the order in which they were passed, thrown together in volumes without any attempt at arrangement, plan or system, and having no indexes worth mentioning, the reader is practically without a clew to guide him in their examination. And without a full and accurate index, a knowledge of our private legislation has become impossible, unless to the few who, for special reasons, have made some subject a special study. Hours and days have been wasted in a fruitless search to find an act which was known to exist, but whose date or title could not be recalled.

This index of ours is the first and only attempt to arrange these statutes by subjects. After some deliberation we decided to collect them by counties. With much labor, the whole mass was finally brought into systematic form. All the acts relating to each particular locality are carefully grouped together. The counties stand in their alphabetical order. By the table of contents the whole may be seen at a glance. Thus their study is made easy and plain. Whatever may be the act you desire to examine, you turn at once to the proper county, and there find every one of your acts, each in its appropriate place.

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## ANNOUNCEMENT.

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# THE STATUTES AT LARGE.

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*In Press.*

To the Lawyer no books are so important as those which contain the ~~complete~~ Statutes. Questions of title often depend on the very oldest acts: questions of construction can frequently be settled only by a reference to the earliest legislation; in all cases it will be found that he who would know the law must first know the history of the law. Recognizing these principles, the United States many years since adopted the plan of bringing out its Statutes at Large in convenient volumes. In New York, Massachusetts, Virginia, and many other States, the same method has always been pursued; while the necessity of such a work for Illinois has long been felt, the want of it often deplored. It is not now too soon to begin, if some of the older enactments are to be rescued from oblivion; already they have perished, until, in several instances, a single copy is all that remains. In view of these facts, the publishers take pleasure in announcing that the material for the STATUTES at LARGE of ILLINOIS has all been collected, and the first volume is in press. Three volumes, it is estimated, will be sufficient to bring the work down to the Revision of 1845.

Volume I., which will soon be ready for delivery, will contain:—

- I. THE VIRGINIA CHARTERS.
- II. THE ACT UNDER WHICH CIVIL GOVERNMENT WAS ORGANIZED IN THE "ILLINOIS COUNTY," IN OCTOBER, 1778.
- III. THE ORDINANCE OF THE CONFEDERATION OF 13 JULY, 1787, ORGANIZING THE "TERRITORY OF THE UNITED STATES NORTH WEST OF THE RIVER OHIO."
- IV. THE ACTS OF THE GOVERNOR AND JUDGES OF THAT TERRITORY UNTIL A LEGISLATURE WAS ELECTED, NAMELY, ACTS OF 1788, 1790, 1791, 1792, 1795, AND 1798.
- V. THE ACTS OF THE TERRITORIAL LEGISLATURE OF THAT TERRITORY WHILE ITS JURISDICTION OVER ILLINOIS REMAINED, NAMELY, ACTS OF 1799.
- VI. THE ACT OF CONGRESS OF 7 MAY, 1800, CREATING "THE INDIANA TERRITORY."
- VII. THE ACTS OF THE GOVERNOR AND JUDGES OF THAT TERRITORY UNTIL A LEGISLATURE WAS ELECTED, NAMELY, ACTS OF 1801, 1802, 1803, AND 1804.
- VIII. THE ACTS OF THE TERRITORIAL LEGISLATURE OF THAT TERRITORY WHILE ITS JURISDICTION OVER ILLINOIS REMAINED, NAMELY, ACTS OF 1805, 1806, 1807, AND 1808.
- IX. THE ACT OF CONGRESS OF 9 FEBRUARY, 1809, CREATING "THE ILLINOIS TERRITORY."
- X. THE ACTS OF THE GOVERNOR AND JUDGES OF THAT TERRITORY UNTIL A LEGISLATURE WAS ELECTED, NAMELY, ACTS OF 1809, 1810, AND 1811.
- XI. THE ACTS OF THE TERRITORIAL LEGISLATURE OF THAT TERRITORY UNTIL THE STATE WAS ORGANIZED, NAMELY, ACTS OF 1812, 1813, 1814, 1815, 1816, AND 1817.

Much of this matter can now be found only in old and rare pamphlets, or in official records at Washington, Columbus, Indianapolis, Springfield, St. Louis, and elsewhere. The arrangement is chronological, and no liberty has been taken with the text, even in formal parts; what is given is a reprint, word for word, identical in orthography and punctuation. Abundant notes and references to original Statutes, Decisions, and Historical works, are introduced in connection with the text, especially showing the connection, relation, and dependence of the successive acts on each subject. With these aids and a full Index, the reader will find no trouble in consulting original acts upon any subject. The work will be brought out as speedily as consistent with the strictest accuracy, and equal to the best American Law works. The precise time when it will be ready cannot now be stated, but due notice will be given.

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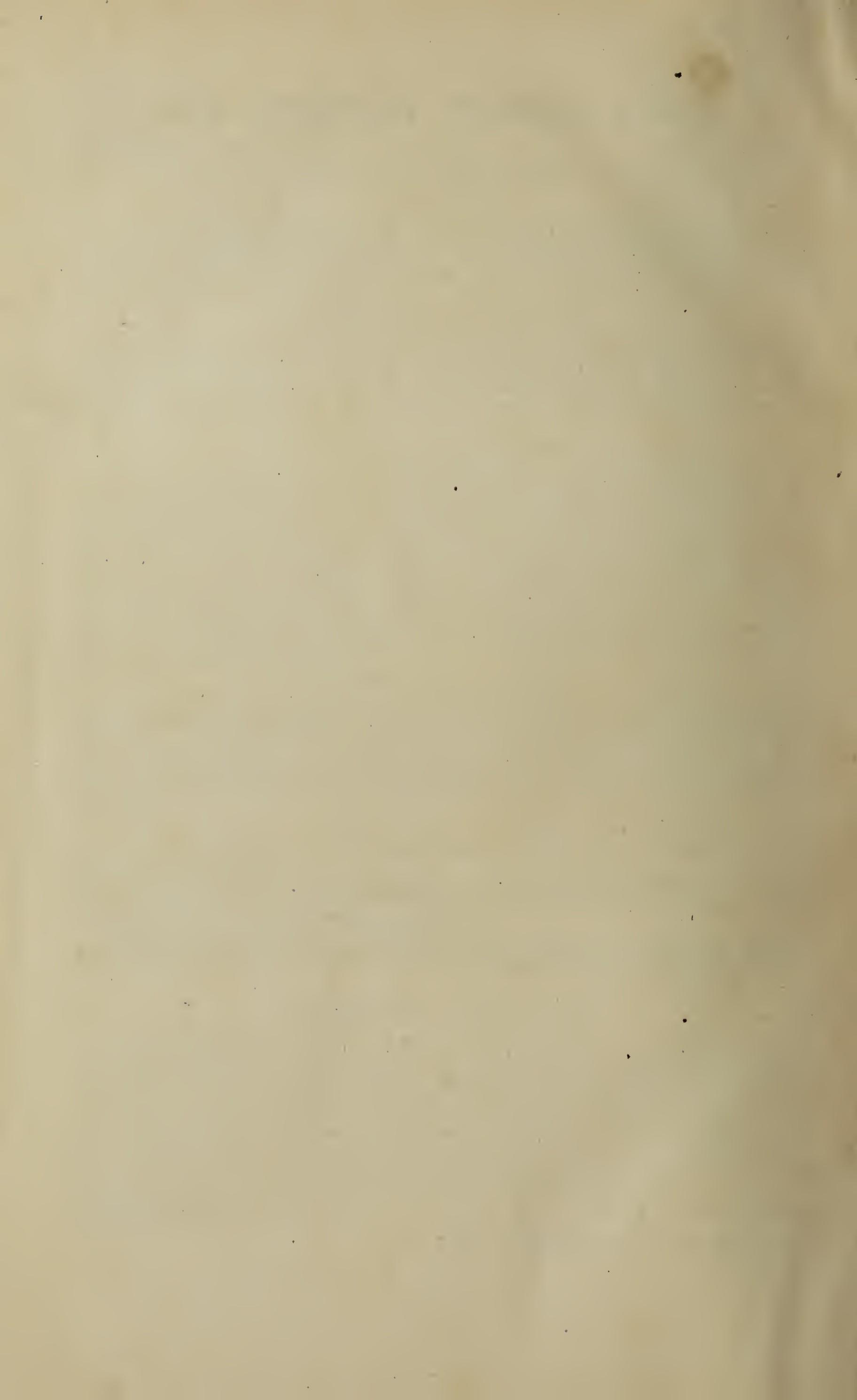
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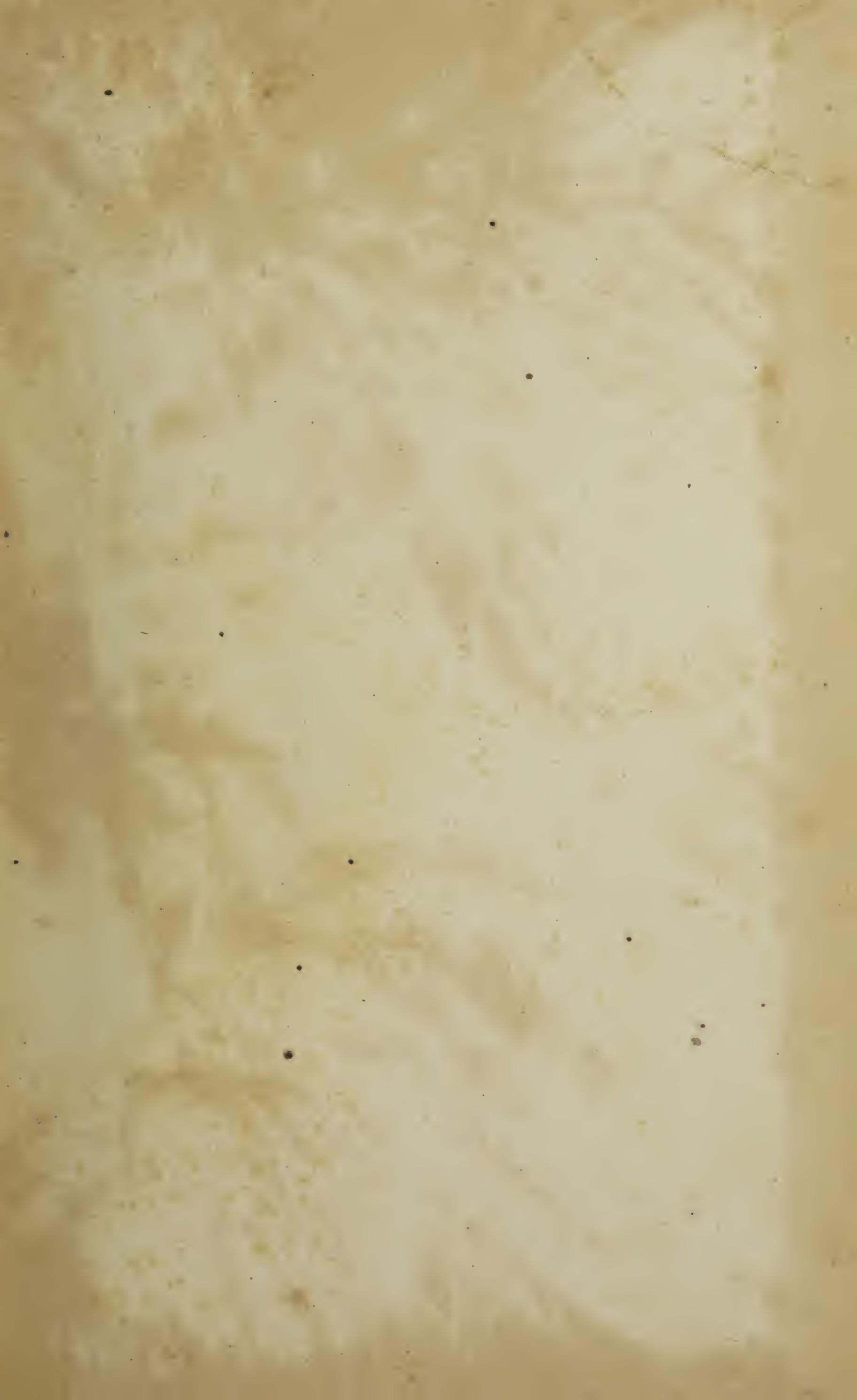
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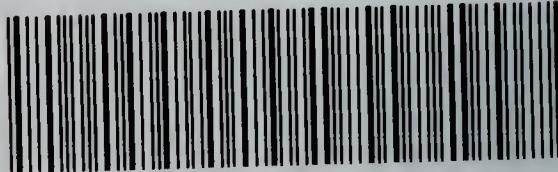








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